United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Ridgecrest Field Office
300 S. Richmond Road
Ridgecrest, CA 93555
www.ca.blm.gov/ridgecrest
(760) 384-5400

In Reply Refer To:
CACA-33490
3809(P)
LLCAD05000.52

DECISION RECORD

CR Briggs Corporation	:	
P.O. BOX 668	:	Decision Record
Trona, CA 93592	:	DOI-BLM-CA-D05000-2011-050-EA

INTRODUCTION AND BACKGROUND

The Briggs open pit gold mine is on public lands located on the west side of the Panamint Mountains within Inyo County, California. This general region of the Panamint Mountains has been prospected and mined for precious metals since the late 19th Century. CR Briggs Corporation acquired and located a set of unpatented mining claims in this area and submitted their plan of operations for these claims to BLM in the early 1990's. An environmental impact statement was written to study the impacts of this plan, and a Record of Decision approving a large, open-pit gold mine was signed July 20, 1995. That 1995 plan included a pit (the Briggs Pit), leach pad, waste rock dumps, and a large clay borrow site on the floor of Panamint Valley. In 1999 the operator submitted an amendment to expand their operation. This proposed opening two more pits, one to the north and one to the south of the Briggs Pit, plus additions to the waste rock dumps and other facilities. An environmental assessment was written and tiered to the original environmental impact statement. That environmental assessment concluded with a Finding of No Significant Impact and a Decision Record was signed January 11, 2000. This decision authorized addition of the North Briggs Pit, Goldtooth Pit and associated facilities to the Briggs plan of operations. See Figures 1 and 2 for the general size and plan of the existing operation.

The Briggs Mine is now approaching the limits of its existing authorized plan of operations. Further economic mineralization has been identified to the south adjacent to the Goldtooth Pit. C.R. Briggs Corporation seeks to amend the presently authorized plan of operation to expand the Goldtooth Pit along with necessary waste rock and topsoil stockpiles.

The mine already operates under a variety of mitigating measures, permits and authorities designed to protect the environment and ensure reclamation. In most cases this proposed action represents a slight increase to the acreage affected by the Briggs Mine, but no change in the kind or manner of expected natural resource impacts. The proposed pit expansion encompasses and will remove a pair of adits immediately south of the Goldtooth pit. These abandoned mine features are known to have been used as a maternity roost by the Townsend's Big-Eared Bat during summer months. The proposed expansion will indirectly impact these bats by removing this maternity roosting site. That impact is discussed in the recent environmental assessment and below.

Bureau of Land Management Purpose and Need for the Proposed Action.

In accordance with Section 302, Title III of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 USC 1732), the use, occupancy and development of the public lands are managed under such terms and conditions as are consistent with this Act. This section states "Except as provided in sections 314, section 603, and subsection (f) of section 601 of this Act and the last sentence of this paragraph, no provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, including, but not limited to, rights of ingress and egress. In managing the public lands the Secretary shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands."

The BLM has a need to provide legal ingress and egress to Briggs for their mining claims, to consider the request for pit extension and implement Congressional policy to manage the public lands in a manner that recognizes the Nation's need for domestic sources of minerals, including implementation of the Mining and Minerals Policy Act of 1970. The purpose of this action is to prevent unnecessary or undue degradation to public lands or resource, implement a Congressional policy to preserve and protect scientific and ecological values, with appropriate levels of protection for wildlife habitat (USC 1732b and 1701). The BLM answers this need and carries out this purpose through Surface Management Regulations 43 CFR 3809 with guidance provided by the BLM manual and pertinent land management plans.

PROJECT DESCRIPTION

BLM's Selected Alternative

The Briggs Mine is a large heap-leach, open-pit gold mining operation located on public lands at the base of the western front of the Panamint Mountains within Inyo County, California. The mine is approximately 8 miles south of Ballarat, California located within portions of Sections 13, 14, 23 and 24 of Township 23 South, Range 44 East, Mount Diablo Meridian.

The operation has 2,363 acres of BLM-managed public lands and includes three pits. The Briggs Main Pit was authorized July 1995. The North Briggs Pit and Goldtooth Pits were authorized January 2000. The operation includes drilling and blasting ore and waste rock from these three pits, placing waste rock (overburden) on the South Waste Rock Dump and North Waste Rock Dump, saving topsoil on various stockpiles,and treatment of ore-grade material. Ore is crushed and placed on the leach pad, where a weak alkaline solution of cyanide percolates through the material, bonds with and removes precious metals from the rock. The leach pad is underlain by impermeable materials and layers which prevent the escape of any fluid and also allow "pregnant" gold-bearing solution to be collected and pumped to a carbon-adsorption gold recovery plant. At this recovery the gold/silver is adsorbed (attached) to activated carbon in tanks, while the metal-free cyanide portion of the solution ("barren" solution) is returned and recycled for reuse on the heap. Gold-bearing carbon is chemically stripped to release the gold, which is then electroplated to a surface of steel wool. The electroplated steel wool is then melted in a furnace to produre a bar of *doré*, or impure gold.

The Briggs Mine operates entirely on BLM-managed public lands. The plan of operation for the Briggs Mine includes approximately 2,383 acres of public land. Of this, roughly 500 acres of mining-related disturbance was approved in 1995 exclusive of the remote clay pit, and roughly another 68 acres of disturbance approved in January 2000 (refer to Figures 1 and 2). The presently proposed

expansion and ancillary facilities encompass 94 acres of public land (Figure 3). This includes 12 acres of expansion at the pit plus 82 acres at associated waste rock and topsoil stockpiles. These 94 acres are entirely within the 2,383 acres previously studied by previous environmental documents.

The Proposed Action would consist of the following components:

1. Extension of the Goldtooth Pit
   A. Mining within the GTS Pit Extension area.
   B. Backfilling existing pits with waste rock from the GTS Pit Extension area
   C. Removal of two Goldtooth mine adits
2. Extension of waste rock dump areas
   A. South Waste Rock Dump Extension Area
   B. South Waste Rock Contingency Area
3. Extension of topsoil stockpiles
   A. Stockpile located southwest of the South Waste Rock Dump
   B. Stockpile located west of the heap leach pad

Pit Extension.
The proposed expansion extends the existing Goldtooth Pit an additional 12 acres to the south (Figure 3). This includes excavating, transporting and treating approximately 3.1 million tons of ore in order to recover precious metals. Approximately 6.9 million tons of waste rock would be excavated and disposed as discussed below. The extension of this pit also removes the Goldtooth mine adits (shown in Figure 4) with impacts discussed elsewhere in this Decision.

Waste Rock Dumps.
The 6.9 million tons of waste rock from the Goldtooth Pit extension would be placed on the South Waste Rock Dump, the South Waste Rock Dump Extension and potentially placed as backfill into the Briggs Main Pit. The South Waste Rock Dump would be increased approximately 53 acres and the South Waste Rock Dump Contingency Area would cover 24 acres (Figure 3).

Topsoil Stockpiles
Topsoil would be stripped from the areas of the above pit extension and waste rock dumps. This topsoil would be saved and stockpiled at the topsoil stockpile next to the South Waste Rock Dump, increasing the size of this stockpile by another 5 acres.

Heap Leach Pad and other facilities
The existing heap leach pad is adequate to hold the additional ore from the Goldtooth Pit Extension. The proposed action will not require any additional acreage for the area of the heap leach pad. No changes area anticipated to the existing ponds, crushing/processing equipment, structures or the off-site clay borrow area.

DECISION

I have reviewed Environmental Assessment (EA) DOI-BLM-CA-D05000-2011-050-EA, and have issued a Finding of No Significant Impact (FONSI) for the CR Briggs Corporation for development of the Goldtooth South Project, the proposed action being a proposal to expand the southern boundary of the existing Goldtooth South pit. It is my decision to approve the proposed action as described in the environmental assessment, subject to the resource conservation measures described in Chapter Four of this EA and outlined below.

In accordance with 43 CFR 3809.803, this Decision is in full force and effective immediately. The conditions of approval include:

MITIGATION AND RESOURCE CONSERVATION MEASURES

Previous Decisions

- The conditions and mitigation measures from the Record of Decision approved July 1995 (environmental impact statement CA065-NEPA-94-03) and the Decision Record approved January 2000 (environmental assessment CA065-NEPA99-164) both remain in effect and are included as appendices to this present Decision Record.

Air Quality

- Diesel-fired generators incorporate best available control technology (BACT) for emission control based on latest ARB and GBUAPCD rules.
- ARB-certified ultra low-sulfur diesel (ULSD) fuel containing 15 ppm sulfur or less shall be used in all diesel-powered construction equipment.
- Diesel equipment engine idle time shall be restricted to no more than five minutes as per ARB rules.
- All off-road construction diesel engines not registered under ARB's Statewide Portable Equipment Registration Program, which have a rating of 50 hp or more, shall meet, at a minimum, the Tier 2, 3 or 4 as specified in California Emission Standards for Off-Road Compression-Ignition Engines unless that such engine is not available for a particular item of equipment. In the event that event equipment shall be equipped as noted in the regulations.
- The primary crusher incorporates BACT (water sprays) and the requirements of NSPS LL for PM10 control.
- Secondary and tertiary crushers, screens, and lime silo incorporate BACT (baghouses) and requirements of NSPS LL for PM10 control.
- Portable conveyors for transporting ore between the crushing circuit and the heap leach pad utilize water sprays for PM10 control.
- Fugitive dust emissions from ore hauling are controlled with a routine application of water and surfactant.
- Fugitive dust emissions from drilling in the mine pit are controlled using a pneumatic flushing and filter system, water injection or other measures as required by APCD.
- Watering of road and earthmoving areas occur during onsite construction and for offsite borrow activities, if any. Surfactants are used to reduce water consumption.
- Onsite vehicles and equipment are maintained on a routine basis to reduce exhaust emissions.
- Roads are maintained on a routine basis.

- HCN emissions are minimized by pH control to prevent the formation of HCN gas and by burying solution distribution lines on the top of the leach pad.

Soil

- The South Waste Rock Dump Contingency Area may be used to store additional rock waste as a result of deepening existing pits. If this area is used, then construction would create a continuous landscape between the leach pad and the South Waste Rock Dump. The area would be re-graded and contoured to resemble the natural alluvial fan.

- Suitable growth media would be salvaged from all areas prior to construction, except on steep slopes to maintain worker safety. Stockpiles would be stabilized to minimize loss of soils through wind and water erosion. Growth media would be redistributed over the Proposed Action area in accordance with the existing reclamation plan upon closure.

Vegetation

- *Ferocatus sp.* and other cactus species shall be salvaged when identified during grubbing and clearing.

- Backfilled areas shall be reclaimed by the operator.

- Briggs would employ effective reclamation tactics including reseeding, contouring, effective storm water management, and utilization of BLM/ Inyo County recommended seed mixes. Effective storm water controls would limit impact of disturbance on adjacent undisturbed vegetation.

Wildlife

The measures committed as mitigation strategies for protection of the Townsend's Big-Eared Bat are incorporated as conditions of approval for this plan authorization. The operator shall

- Exclude bats from the Goldtooth adit prior to mining activities. This includes monitoring bats at dusk using night vision equipment and dropping exclusion netting after bats stop exiting the Goldtooth adit. Exclusion activity shall continue until all bats are evicted.

- Initiate a mitigation strategy for the Townsend's big-eared bat that has been developed with inter-agency and professional biological input, for the removal of the Goldtooth adit. Bats shall be excluded from the Goldtooth adit prior to mining activities. This includes closure of the Goldtooth adit for the fall of 2011 and winter of 2011/2012, prior to any planned mining activity.

- Survey Adit 14 in the spring and summer of 2012 and 2013, during the maternity seasons, to determine if it has been accepted as an alternative maternity roost site. Acceptance of Adit #14 shall be documented by growth trends in the population of the bats and use of the adit as a maternity roost as determined by the BLM authorized officer in consultation with a BLM approved qualified bat biologist familiar with bat populations in the California Desert. Thermal data loggers shall be installed in the mine and drop cloths would be placed down to collect guano during the winter season of 2011/2012. A safe hiking trail shall be constructed to Adit #14 to provide access for continued monitoring.

- Survey Adit 14 for at least the next five years to determine whether bats relocate there, the species distribution, and type of use.

- Survey the Cecil R, Anthony Mill and Jackpot adits at least once a year to continue monitoring of Townsend's big-eared bat population trends. Surveying shall be conducted in the spring (April

or May) or in the summer (late July or early August). Bat gates at these adits shall be maintained. The lower Jackpot gate will be repaired and an additional gate shall be installed at Anthony Mill.

- Revisit the remaining mines near Redlands Canyon in the spring of 2012 (that were located in 1989-1994) for signs of a maternity colony.

- Mist-net Redlands Spring at the direction of the BLM authorized officer if that authorized officer, after consultation with the CDFG, determines that a sufficient number of bats have not relocated to Adit 14. If determined to be necessary, this mist-netting would be done in the spring and summer in an attempt to capture reproductive females. A telemetry study may be conducted to locate the displaced colony.

- Construct a new maternity habitat if after two years it is determined by the BLM authorized officer, after consultation with a BLM approved qualified bat biologist familiar with bat populations in the California Desert, that the Townsend's big-eared bats do not accept Adit #14 and if no new sites are discovered near Redlands Canyon. This shall be a suitable new maternity habitat with the same temperature regimes as the Goldtooth Adit and with sufficient volume to insure thermal stability. If determined to be necessary, the maternity habitat shall be constructed with guidance from a BLM approved, qualified bat biologist familiar with bat populations in the California Desert and with concurrence from the BLM and CDFG. Construction of a bat habitat would require a NEPA analysis separate from environmental assessment DOI-BLM-CA-D050-2011-050-EA. As a wildlife habitat rehabilitation measure per Surface Management Performance Standards 43 CFR 3809.420(b)(3) and 3809.420(a)(4), the design and construction of such a habitat would treated as an amendment to the Briggs reclamation plan subject to the financial guarantee requirements of 43 CFR 3809.500. Briggs would then monitor this site for up to six years to track acceptance by the bats.

Relationship to Other Permits and Authorizations

- All equipment, devices, practices and operations at the Briggs Mine shall comply with pertinent Federal, State and local laws and regulations. These include regulations, permits and operating standards of the U.S. Environmental Protection Agency, U.S. Mine Safety Health Administration, California Department of Conservation, County of Inyo, Lahontan Regional Water Quality Control Board, and the Great Basin Unified Air Pollution Control District.

- All operations at the Briggs Mine shall be conducted in compliance with pertinent Federal and State laws. These include the California Surface Mining & Reclamation Act, Clean Water Act, Federal Clean Air Act, Endangered Species Act and National Historic Preservation Act.

ALTERNATIVES CONSIDERED

The environmental assessment considered three alternatives: the No Action alternative, the Proposed Action and an underground mining alternative. The No Action alternative was not selected because it does not meet the BLM's purpose and need for action in this matter. That purpose and need is established by the Federal Land Policy and Management Act BLM to provide CR Briggs Corporation with right of access to their unpatented mining claims, and to prevent unnecessary or undue degradation of the lands (43 USC 1732(b)). While the no action alternative would avoid disturbance of these lands, it does not provide CR Briggs with access to their mining claims. The no action alternative does not meet the purpose and need for this action. The underground mining alternative was considered but eliminated from further analysis (discussed below).

Staff discussed the possibility of constructing an artificial bat maternity habitat and whether this would be before, or after the pit expansion removes the Goldtooth adits. The concept of an artificial habitat was incorporated as an applicant committed measure after concurrence with California Department of Fish & Game and BLM wildlife biologists. The determination to require, or not require an artificial roost will be made after pit expansion has begun because:

- The need to collect more data on the acceptability of Adit 14 (and other abandoned adits) prior to making a factual determination on whether an artificial habitat is necessary.
- The observed presence of bats in Adit 14 during the summer indicates a potential that a maternity colony may naturally relocate there.
- NEPA does not require imposing a measure based on speculation. While it is not certain that Adit 14 would support additional bats displaced from the Goldtooth adit, it is also not certain that it would not. Monitoring and factual data are needed to determine whether the remaining adits in this area will, or will not be sufficient to support a viable Townsend's Bat maternity colony.
- The lack of success with other, previously constructed artificial bat habitats.
- That it would place an onerous burden and delay on the operator without the certainty of achieving the desired result.

ALTERNATIVES CONSIDERED BUT ELIMINATED FROM FURTHER STUDY

Mineral deposits are generally developed either through surface or underground mining methods. Underground mining was considered but eliminated from further analysis. Underground mining was also considered but eliminated from further study by the Final Environmental Impact Statement/ Environmental Impact Report accomplished in 1995. That Environmental Impact Statement states

2.3.3.1.3 Underground Mining Alternative

> *Underground mining is typically suited to deep mineral deposits of high-grade veins or seams. Such deposits generally require removal of a relatively small volume of the host material in order to recover the mineral values. In the case of high-grade veins, values are typically confined to discrete structural discontinuities such as joints or fractures in a competent host rock. Underground tunnels can be excavated along these deposits, leaving most of the host rock in place to support the overburden. This method of mining is not applicable to disseminated ore bodies such as the one at the Briggs site.*

A disseminated deposit is a deposit in which fine-grained ore minerals are scattered throughout the rock, rather than concentrated in a vein or layer with distinct boundaries. This present deposit is not suitable for underground mining.

AUTHORITIES

This decision is in conformance with the California Desert Conservation Area Management Plan of 1980, as amended, and the Northern and Eastern Mojave Management Plan. The approval of this action is consistent with Surface Management regulations 43 CFR 3809 and the Federal Land Policy and Management Act of 1976.

DECISION RATIONALE

In the FONSI for this action, a determination was made that the selected alternative will not significantly affect the quality of the human environment and that preparation of an Environmental Impact Statement is not required. The selected alternative meets the BLM's need and is preferred over other alternatives.

The proposed disturbance is entirely within the boundaries previously studied by Environmental Impact Statement CA065-NEPA-94-03 and authorized by Record Of Decision July 10, 1995. Measures for the protection of air, water, soil, vegetation, wildlife and for reclamation of the land are already in place. The proposed action represents an increase in size for this mining operation, but not a basic difference in the kind of operation or the form of expected impacts.

The old Goldtooth mine adit is within the affected area. This proposed action will mean the elimination of the Goldtooth adit from usage as a summer maternity roost by the Townsend's Big-Eared Bat. The Townsend's Bat is regarded as a BLM-Designated Sensitive Species in California. California Desert Conservation Area Plan of 1980 states that BLM's objective is to manage designated sensitive wildlife species and their habitats "so as to minimize the potential for Federal or State listing" (Chapter 3, Wildlife Element). That plan also states that BLM-designated sensitive species "will be given protection in management decisions consistent with BLM policies" (Table 1 of the CDCA Plan).

In my opinion, the mitigation and conservation measures outlined in this decision are sufficient to accomplish these goals of the California Desert Conservation Area Management Plan.

The potential impacts to this bat colony appear to be identical to those previously analyzed in the 1995 environmental impact statement (Section 4.5.1.1.2 of Volume 2), which concluded that if the maternity colony utilizing the project site does not successfully relocate, the impact to this species would be considered significant. If the maternity colony is found to successfully relocate and is documented at an alternate roost site that appears capable of supporting them, and necessary measures are implemented to protect the new roost, project impacts to the Townsends Big-Eared Bat would be determined to have been mitigated to a level of less than significant. In my opinion the conservation measures outline in this Decision minimize the potential impacts to the Townsend's Bat and give protection to this species in a manner consistent with BLM policies. If the maternity colony is found to successfully relocate at an alternate roost site that appears capable of supporting them, and necessary measures are implemented to protect the new roost, then project impacts to the Townsends Big-Eared Bat would be determined to have been mitigated to a level of less than significant.

PUBLIC INVOLVEMENT

The environmental assessment for this action was released June 30, 2011 and posted on the public website for the Ridgecrest Field Office, comments due by August 31, 2011. Several comments were received from the public. Those comments and responses are contained in Attachment 1 of the revised environmental assessment issued November 18, 2011. This revision incorporated the received comments, and further data with a comment due date of December and had a comment date of December 7, 2011. Comments were received from the National Park Service, California Department of Fish & Game, Center for Biological Diversity, Pat Brown-Berry (professional bat biologist) and Mr. Tom Budlong, citizen. These most recent comments are appended to this Decision as Attachment 1.

Many of these comments addressed the Townsend's Big-Eared Bat, their usage of the old Goldtooth mine adit as a maternity roost, the effect removal of this adit may have on the bat population of Redlands Canyon, and whether sufficient bats would utilize nearby adits as alternative maternity roosts. Hard statistics and firm data on the local bat population has been difficult to obtain. What data exists is summarized in the revised environmental assessment. NEPA requires BLM to obtain information if it relevant to reasonably foreseeable adverse impacts, essential to a reasoned choice among alternatives, and the overall cost of obtaining it is not exorbitant. NEPA also allows evaluation of impacts (to this bat population) based upon theoretical approaches or methods generally accepted in the scientific community. Evidence of bat occupation was observed by a qualified bat biologist in Adit 14 (an alternative site), during August of 2011. The California Fish & Game (the agency charged with management of

California's wildlife) concurred that the mitigation measures outlined in this EA, with minor modifications, will be adequate to offset negative impacts to this species (see Attachment 1). For these reasons I feel the comments and concerns regarding the Townsend's Big-Eared Bat have been adequately addressed.

CONSULTATION AND COORDINATION

This analysis included consultation and coordination with the Ridgecrest Field Office staff, the California Department of Fish and Game, the Inyo County Planning Department, the Timbisha-Shoshone Tribe and bat biologist Dr. Pat Brown-Berry,

APPEALS

A party adversely affected by this decision may ask the State Director of the appropriate BLM State Office to review the decision under 43 CFR 3809.800. An adversely affected party may also bypass the State Director and directly appeal to the Office of Hearings and Appeals (OHA) in accordance with the regulations contained within Part 4 Title 43 of the Code of Federal Regulations.

A request for State Director Review must be received within 30 days of the time you receive or are informed of the BLM decision. The address is

Director
California State Office
2800 Cottage Way, Suite W-1623
Sacramento, CA 95825

Your request for State Director review must be a single package that includes a brief written statement explaining why BLM should change its decision and any documents that support your written statement. Mark your envelope "State Director Review." You must also provide a telephone or fax number for the State Director to contact you. Once the State Director issues a decision, it replaces the original BLM decision, which is no longer in effect, and you may appeal only the State Director's decision. If the State Director does not make a decision within 21 days on whether to accept your request for review, you should consider your request for State Director review declined, and you may appeal the original BLM decision to OHA. The State Director's decision will be effective immediately and remain in effect, unless a stay is granted by OHA.

An adversely affected party may appeal the State Director's decision to OHA under part 4 of this title. An adversely affected party may also bypass State Director review and directly appeal a BLM decision to the Office of Hearings and Appeals (OHA).

In order for OHA to consider your appeal of a decision, you must file a notice of appeal in writing with the BLM office where the decision was made. Your written appeal must contain: your name and address and the BLM serial number of the notice or plan of operations that is the subject of the appeal. You must submit a statement of your reasons for the appeal and any arguments you wish to present that would justify reversal or modification of the decision within 30 calendar days after filing your appeal. All decisions go into effect immediately and remain in effect while appeals are pending before OHA unless OHA grants a stay.

In order for OHA to consider your appeal of a decision, you must file a notice of appeal in writing with the BLM office where the decision was made (the Ridgecrest Field Office). That address is

Ridgecrest Field Office

300 S. Richmond Road
Ridgecrest, CA 93555

Your written appeal must contain: your name and address and the BLM serial number of the notice or plan of operations concerning the subject of the appeal. You must submit a statement of your reasons for the appeal and any arguments you wish to present that would justify reversal or modification of the decision within 30 calendar days after filing your appeal. All decisions go into effect immediately and remain in effect while appeals are pending before OHA unless OHA grants a stay of decision under 43 CFR 4.21. The burden is on the appellant to make the request for such a stay. The petition for a stay of decision must show sufficient justification based on

- The relative harm to the parties if the stay is granted or denied.
- The likelihood of the appellant's success on the merits.
- The likelihood of immediate and irreparable harm if the stay is no granted, and
- Whether the public interest favors granting the stay.

Signed

Carl B. Symons
Acting Ridgecrest Field Manager

2/1/2012
Date

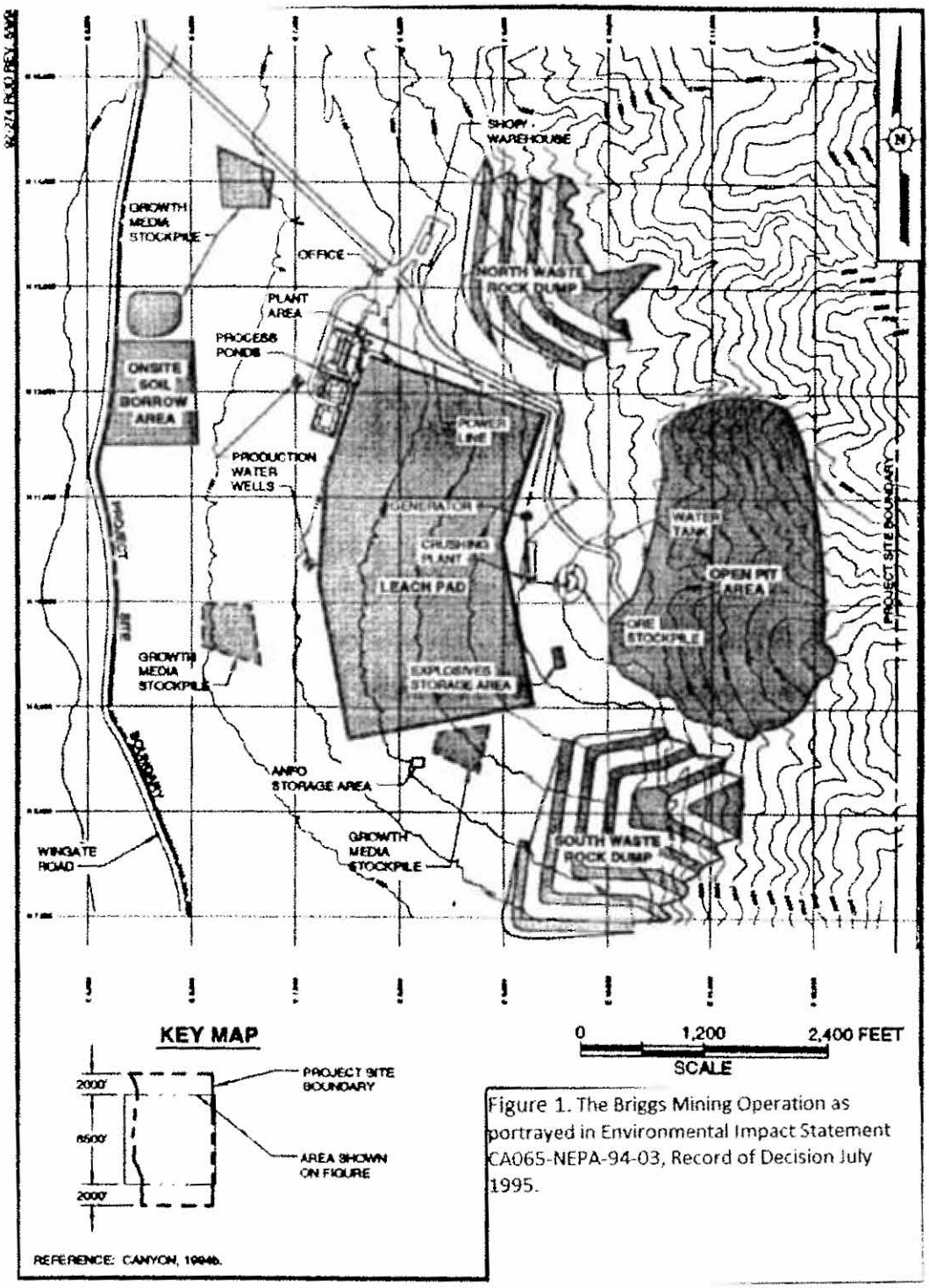


Figure 1. The Briggs Mining Operation as portrayed in Environmental Impact Statement CA065-NEPA-94-03, Record of Decision July 1995.

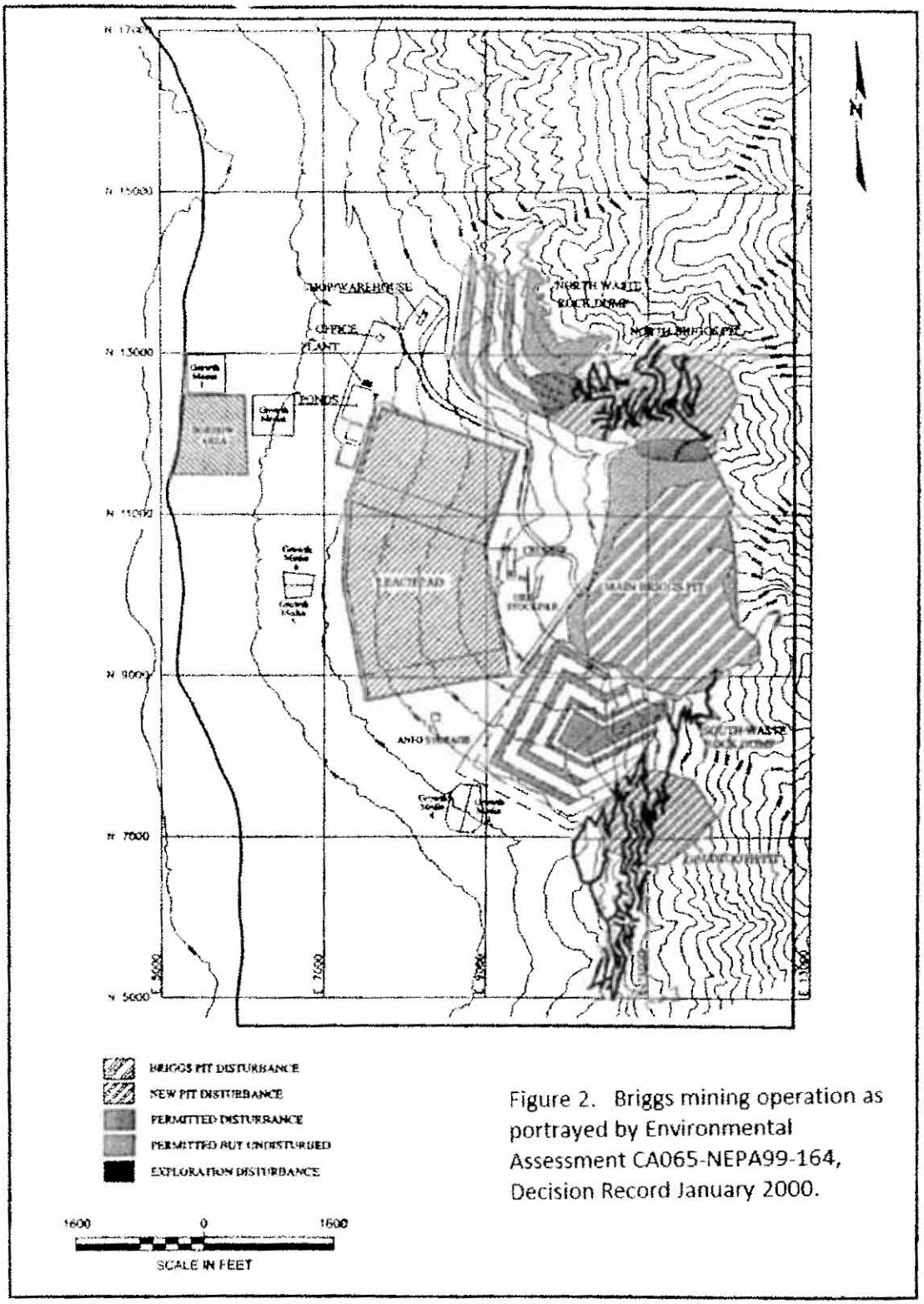
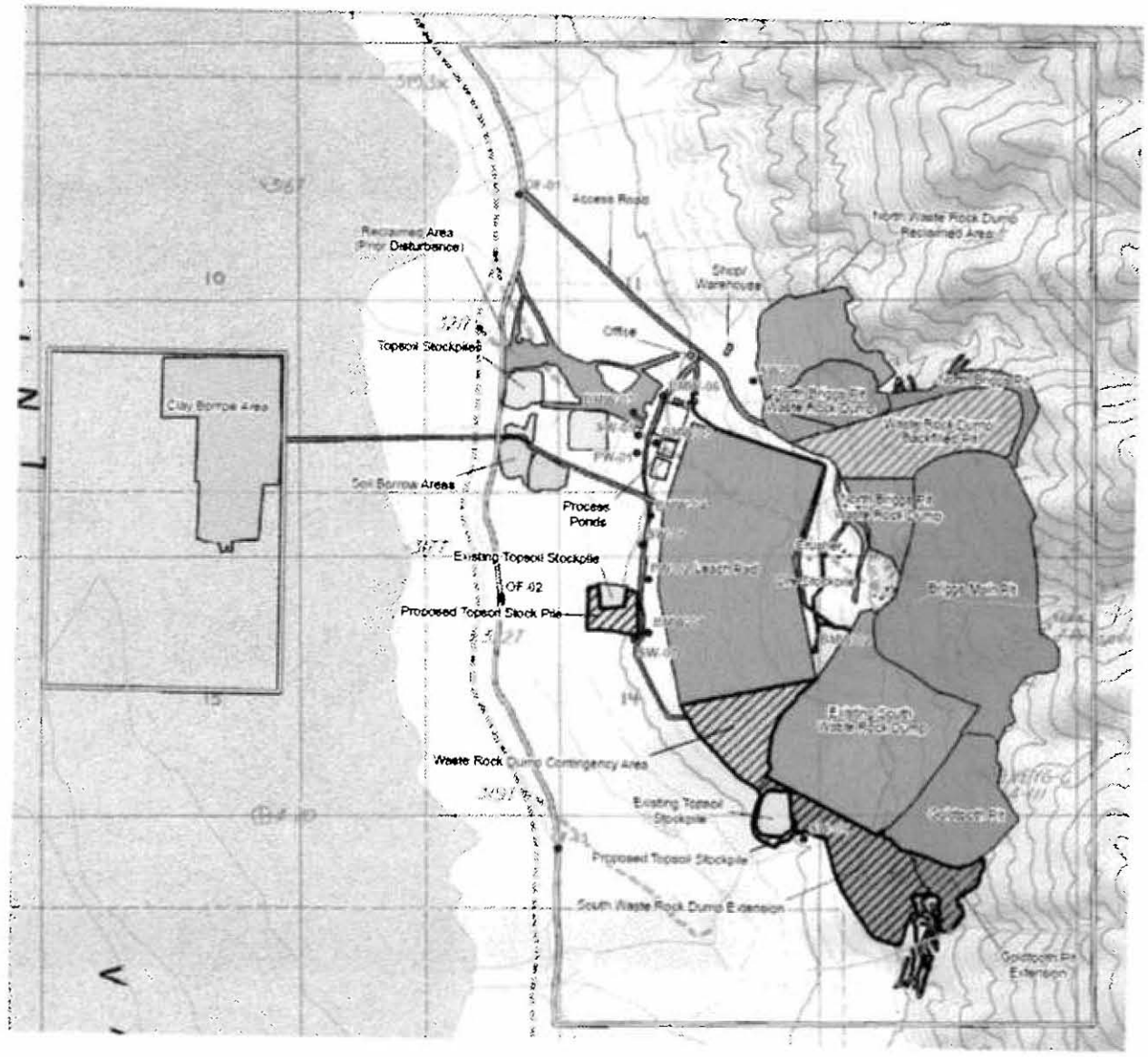


Figure 2. Briggs mining operation as portrayed by Environmental Assessment CA065-NEPA99-164, Decision Record January 2000.



LEGEND

- OF-02 = Stormwater Monitoring Location
- SW-07 = Surface Monitoring Location
- BMW-03 = Groundwater Monitoring Location
- PW-01 = Production Well

- Drainage Way
- Briggs Permit Boundary
- South Waste Rock Dump Extension
- Borrow Area
- Existing Reclaimed Area
- Facility
- Leach Pad
- Pit
- Road
- Topsoil Stockpile
- Waste Rock Dump
- Waste Rock Dump Contingency Area
- Waste Rock Dump/Backfilled Pit
- Proposed Action Area

Figure 3. Proposed new expansion and disturbance. Taken from environmental assessment DOI-BLM-CA-D05000-2011-050-EA.

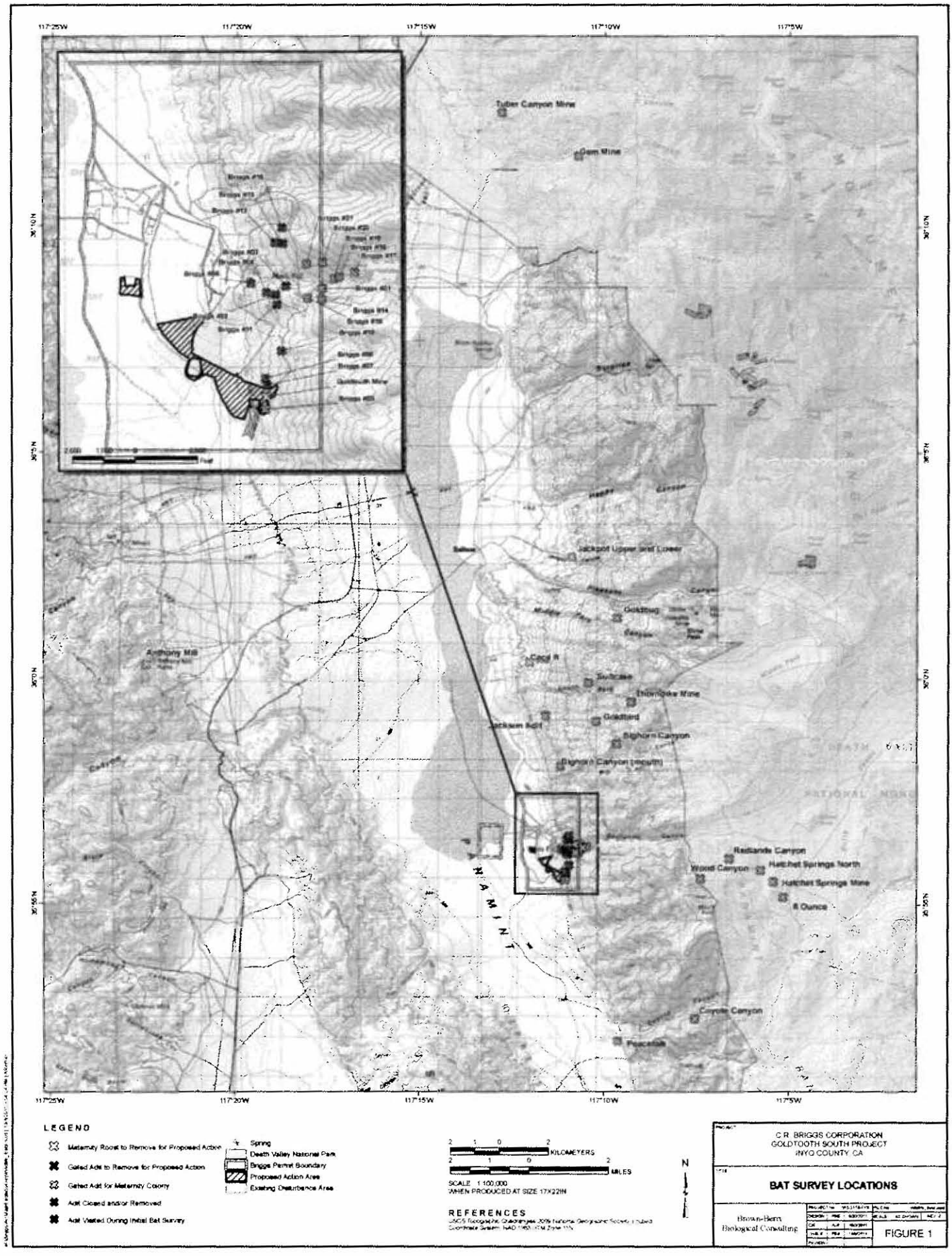


Figure 4. Bat Survey Locations. Taken from Appendix F of the current environmental assessment.

ATTACHMENT 1

ATTACHMENT 1

Date December 9, 2011

Reviewer Name Pat Brown-Berry, Biological Specialist, PhD

Agency/Organization Brown-Berry Biological Consulting

Telephone Number (760) 387-2005

Mailing Address 134 Eagle Vista, Bishop, California 93514

E-mail Address patbobbat@aol.com

Comment 1: Section 4.5.2.1, Applicant Committed Measures

On page 64-65, the terms "authorized officer" and "qualified biologist" should be better defined. The officer I assume is BLM and what position? It should also state qualified BAT biologist familiar with bat populations in the California Desert. There should be some criteria for determining what qualifications are necessary in case I am unavailable or Briggs doesn't want to use me.

Response 1

The terms Authorized Officer and qualified biologist were clarified to read as follows; the BLM authorized officer in consultation with a BLM approved, qualified bat biologist familiar with bat populations in the California Desert.

Comment 2: Section 4.5.1 Impacts

On page 63 last paragraph, it is confusing how raptor and eagle experience could span 160 years?

Response 2

Comment acknowledged. Item removed from document.

Comment 3: Section 4.7.5 Wildlife

On page 69, somehow an error was introduced in what I had written. The 3 mines (Cecil R, Jackpot and Anthony Mil) are not "existing" or located in Redlands Canyon. This section also implies that the bats will be relocated to suitable habitat and therefore mitigated. As we know this is not a given, and the bat colony has already declined due to the prior disturbance. To be this is a cumulative impact. I also believe that even if the stated current plans are not to mine the Cecil R the fact that it is claimed does indicate potential future intent, adding to potential cumulative impacts for the bats in the Panamint Valley.

Response 3

Given the configuration, size, temperature and north orientation of the portal of Adit #14, along with the levels of use determined by surveys in the last several years, concerns exist that this adit may not be an adequate mitigation site for the displacement of the maternity colony recently excluded from the Goldtooth Adit. Three other maternity colonies (Cecil R, Jackpot and Anthony Mill) were identified during previous surveying efforts conducted by Dr. Brown-Berry. These sites were gated as mitigation for previous mine expansion activities and have been monitored as described in Appendix F. Only Cecil R is on land claimed to Briggs and Briggs does not have current plans for development on these claimed lands.

Dear Randy and Lori,

I've been involved with mother care issues in Bishop and totally lost track of the date. I was thinking I had until Friday to comment. I have a few minor issues and can put these in a formal comment letter if necessary.

On page 64-65, the terms "authorized officer" and "qualified biologist" should be better defined. The officer I assume is BLM and what position? It should also state qualified BAT biologist familiar with bat populations in the California Desert. There should be some criteria for determining what qualifications are necessary in case I am unavailable or Briggs doesn't want to use me.

On page 63 last paragraph, it is confusing how raptor and eagle experience could span 160 years?

On page 69, somehow an error was introduced in what I had written. The 3 mines (Cecil R, Jackpot and Anthony Mil) are not "existing" or located in Redlands Canyon. This section also implies that the bats will be relocated to suitable habitat and therefore mitigated. As we know this is not a given, and the bat colony has already declined due to the prior disturbance. To be this is a cumulative impact. I also believe that even if the stated current plans are not to mine the Cecil R the fact that it is claimed does indicate potebtial future intent, adding to potential cumulative impacts for the bats in the Panamint Valley.

In the next paragraph, the Billie Mine is placed to the north in Panamint Valley. The only Billie Mine that I am aware of is east of Death Valley.

I'm in Bishop at 760 387 2005 if you need to discuss this further.

Cheers,

Pat

United States Department of the Interior
NATIONAL PARK SERVICE
Death Valley National Park
P.O. Box 579
Death Valley CA 92328

L7619

December 5, 2011

Carl Symons, Acting Field Manager
Bureau of Land Management
Ridgecrest Field Office
300 S. Richmond Rd.
Ridgecrest, CA 93555

Re: Briggs Corporation/Goldtooth South Project Revised Environmental Assessment, DOI-BLM-CA-D05000-2011-050-EA

Dear Mr. Symons:

The National Park Service at Death Valley National Park has reviewed the Briggs Corporation/Goldtooth South Project Revised Environmental Assessment (EA). We appreciate that this version of the document attempts to assess and analyze the impacts of the proposed action to Townsend's Big-eared bats (*Corynorhinus townsendii*) by including Dr. Patricia Brown's bat survey reports and outlining a more detailed plan for mitigation.

We continue to have some concerns about the effectiveness of the proposed mitigation, and we appreciate the opportunity to share our recommendations regarding strategy and timing to help inform this planning process.

We recommend that Adit #14 have continued surveys for at least the next five years to determine whether bats relocate there, the species distribution, and type of use. Given the configuration, size, temperature, and north-orientation of the portal of this adit – along with the levels of use determined by surveys in the last several years – we have some concerns about Adit #14 being an adequate mitigation site for the displacement of the maternity colony currently in the Goldtooth adit.

With this concern in mind, we question the strategy of waiting two years to determine if bats relocate to Adit # 14 prior to constructing an artificial bat habitat. Why not construct the artificial habitat and make it available prior to the Goldtooth adit being destroyed? This would provide the greatest opportunity for preserving the health and integrity of the maternity colony, and we recommend this proactive approach. The artificial habitat should be designed to maximize the attractiveness to a maternity colony (sufficient size and complexity, stable warm temperatures and good air flow). The site should be monitored to determine acceptance by bats; the monitoring should include temperature and air flow data in addition to data related directly to the bat

population. Published results would provide a way of disseminating information to other land managers about this new and largely untested practice of building artificial bat habitats, and acceptance of the artificial habitat by a targeted species.

In addition, we recommend that known maternity roosts in the western Panamint Mountains and the Anthony Mill Mine on the west side of Panamint Valley have continued surveys for the next five years. This would provide information as to the stability of these colonies, and may detect if displaced colony members from Goldtooth are incorporated into these colonies.

According to Dr. Brown's report, the original colony of Townsend's Big-eared bats was one of the three largest known colonies in the Mojave Desert. The colony is now half its original size. This colony of bats has been through great disturbance in the past eighteen years due to mining activities, and this connected project poses a significant challenge to the population's continued health and survival. Because of the proximity of Death Valley National Park to the proposed project site, there is potential for cross-boundary impacts to bat populations in the park, and we urge you to consider these impacts when refining the timing and strategy for mitigation within the EA.

The National Park Service appreciates the opportunity to comment on this EA, as the proposed action has the potential to adversely impact the unique resources that Death Valley National Park was established to protect. We look forward to continue working collaboratively with you to ensure that both the Bureau of Land Management and the National Park Service can meet the mandates of our missions.

Sincerely,

Sarah Craighead
Superintendent

Forwarded by Candace Lieber

On behalf of Sarah Craighead

Superintendent

Death Valley National Park

Comment 1: Section 4.7.5 Wildlife

We continue to have some concerns about the effectiveness of the proposed mitigation, and we appreciate the opportunity to share our recommendations regarding strategy and timing to help inform this planning process.

We recommend that Adit #14 have continued surveys for atleast the next five years.....we have some concerns about Adit #14 being an adequate mitigation site for the displacement of the maternity colony currently in the Goldtooth Adit.

With this concern in mind, we question the strategy of waiting two years to determine if bats relocate to Aidt #14 prior to constructing artificial bat habitat. Why not construct the artificial habitat and make it available prior to the Goldtooth Adit being destroyed?....Because of the proximity of death Valley national Park to the proposed project site, there is potential for cross-boundary impacts to bat populations in the park, and we urge you to consider these impacts when refining the timing and strategy for mitigation within the EA....

Response 1:

The monitoring will continue for atleast five years.

There is potential to adversely impact the unique resources that Death Valley National Park was established to protect and BLM will maintain an ongoing communication process with NPS. Through consultation with CDFG, it was concluded that the artificial bat habitat would be constructed if it appeared that the maternity colony was not adopting Adit #14. The construction of a bat habitat will require a separate NEPA analysis from this EA.

Ileene Anderson

Comment 1

I picked up the EA this morning. My request, submitted yesterday, for an extension on the comment deadline to January 3, still stands. The EA is 1 ½ inches thick with hundreds of pages including 8 appendices that must be reviewed and commented on. Additionally, we believe that NEPA requires a full public review process for the EA, not just comments from those of us that had commented on a previous draft.

Response 1

This action was put out for public comment from June 29, 2011 through August 1, 2011 and extended an additional 30 days based upon public comment and interest. After comments were received and incorporated into the analysis, the document was sent out as a courtesy for a second comment period; therefore, the comment period was not extended.

Hello Randall Porter and Carl Symons,

I picked up the EA this morning. My request, submitted yesterday, for an extension on the comment deadline to January 3, still stands. The EA is 1 ½ inches thick with hundreds of pages including 8 appendices that must be reviewed and commented on. Additionally, we believe that NEPA requires a full public review process for the EA, not just comments from those of us that had commented on a previous draft.

Thanks in advance for considering our requests.

Sincerely,

Ileene Anderson

Tom Budlong
Voice: 310-476-1731
Fax: 310-471-7531
email: TomBudlong@RoadRunner.com

Comment 1 Section 3.1.3 Cultural Resources

Native American Consultation is Lacking

No decision on the November EA should be made until consultation with the Timbisha has been concluded. Consultation with Native Americans, as described in the EA, is insufficient.

Response 1

For the current Proposed Action, BLM has initiated consultation with the Timbisha Shoshone Tribe of Death Valley regarding this new undertaking within a letter dated January 10, 2011 (Appendix A 2). In that letter BLM acknowledged the previous concerns, statements, and position that the Tribe had regarding mining in the Panamint Range. BLM stated in the letter that these previous concerns would be taken into consideration during the permit review for the current Proposed Action, and BLM also asked the Timbisha Tribe if they had any additional comments or questions regarding the project. A suggested submission date of Feb. 15, 2011, was offered to the Tribe, which provided about a five week timeframe for the Tribe to respond.

As yet, no written response has been received by BLM from the Timbisha Tribe regarding this. There were a number of informal meetings though by BLM with the Tribe at Death Valley during the summer of 2011. At that time Tribal representative stated that their position and concerns regarding any mining operation within the Panamint Mountains of Inyo County had not changed. They still opposed any such activity.

Comment 2 Section 4.7.5 Wildlife

Significant adverse impact to Townsend's Big-eared bats is highly probable. The November EA does not recognize this.

Response 2

The November EA discusses impacts to Townsend's Big-eared bats in Sections 3.2.5 and 4.5.1.

Comment 3

I feel the BLM is in jeopardy of having allowed the project to begin without approval by closing the Goldtooth adit in November 2011, in anticipation of the start of mining. The necessary objectivity of the EA and the process is tainted by this action, and by other statements in the EA. Description of habitat disturbance, which includes destruction of the maternity colony's habitat, is characterized as 'relatively marginal', an indistinct and highly subjective term with no supporting backup. Another statement is that evicting bats from the Goldtooth was done to protect them from harm. The analysis of the underground

mining alternative is feeble at best. The no action alternative says GHGs won't increase, but does not mention GHGs will decrease. Loss of gold to the market is included in environmental impacts. Relocation of the maternity colony appears to have a yes or no outcome. This is different than normal mitigations, where, for instance, extra contouring, or processing, or other measures, reduce impact enough. In this situation, if after a relocation attempt the colony cannot be found, the high probability conclusion must be that the colony was lost and harm has been total, not reduced below the level of significance.

Should the evicted colony be lost, then destruction of the Goldtooth adit after a relocation failure would then mean destruction of what would have been shown to be the only suitable habitat in the area. Essentially, Townsend's would have been removed from this place, and significant impact will have occurred. Avoiding significant impact on loss of the colony from a relocation attempt would require leaving the Goldtooth intact, hoping another colony will form in years, just as the current colony is forming fifteen years after the loss of the Briggs colony in 1995.

Fundamentally, the only way the proposed action should be approved is after the Goldtooth colony has been shown to have relocated in the area. Significant impact would have then been avoided.

Response 3

In November of 2011, wildlife was temporarily excluded by a qualified bat biologist only after consultation with and approval by CDFG.

Through consultation with CDFG, it was concluded that the artificial bat habitat would be constructed if it appeared that the maternity colony was not adopting Adit #14. The construction of a bat habitat will require a separate NEPA analysis from this EA.

Comment 4

A time-warp statement says the November 2011 Goldtooth closure will be dependent on a decision the next spring. Failure to include Native American consultation looks like avoiding the issue.

Response 4

The first sentence above was a typographical error and was removed.

Refer to the response for Comment 1 regarding Native American Consultation.

Thursday, January 12, 2012

Randy Porter, Geologist
Carl Symons, Field Manager
BLM Ridgecrest
300 South Richmond Road
Ridgecrest, CA
93555

Dear Mr. Porter and Mr. Symons,

Please accept these comments on EA number DOI-BLM-CA-D05000-2011-050-EA, November 18, 2001. This is the revised EA for the proposed Briggs mine expansion in the Panamint Mountains.

I appreciate inclusion of Appendix F, the Bat Survey, in this revised EA. It has provided clarity and information that was not available in the original EA. The added information is necessary for responsible consideration of the Townsend's bat colony.

I previously noted missing pages in the revised EA I received, and asked Randy to supply them. He explained that they were part of a Class III Cultural Resource Inventory, which should not be part of a public document. I still have not received a reply to my December 6 request for an extension of the comment period, although Carl and I talked about it during our phone conversation on Jan 10.

A major flaw in the EA is failure to recognize the high probability of significant impact to the Townsend's bats, unlike the 1995 EIR which identifies maternity colony loss as a significant impact. The comments in this letter point out that the EA has no requirement for successful relocation of the Goldtooth maternity colony, only a requirement to take some mitigation measures. Success is not required. Moreover, the proposed mitigation measures are strikingly similar to those that failed in 1995. Once this unacceptably high probability of significant impact is recognized, it becomes obvious that the proposed action should not be approved without a successful relocation.

I feel the BLM is in jeopardy of having allowed the project to begin without approval by closing the Goldtooth adit in November 2011, in anticipation of the start of mining. The necessary objectivity of the EA and the process is tainted by this action, and by other statements in the EA. Description of habitat disturbance, which includes destruction of the maternity colony's habitat, is characterized as 'relatively marginal', an indistinct and highly subjective term with no supporting backup. Another statement is that evicting bats from the Goldtooth was done to protect them from harm. The analysis of the underground mining alternative is feeble at best. The no action alternative says GHGs won't increase, but does not mention GHGs will decrease. Loss of gold to the market is included in environmental impacts. A time-warp statement says the November 2011 Goldtooth closure will be dependent on a decision the next spring. Failure to include Native American consultation looks like avoiding the issue.

Relocation of the maternity colony appears to have a yes or no outcome. This is different than normal mitigations, where, for instance, extra contouring, or processing, or other measures, reduce impact enough. In this situation, if after a relocation attempt the colony cannot be found, the high probability conclusion must be that the colony was lost and harm has been total, not reduced below the level of significance.

Should the evicted colony be lost, then destruction of the Goldtooth adit after a relocation failure would then mean destruction of what would have been shown to be the only suitable habitat in the area. Essentially, Townsend's would have been removed from this place, and significant impact will have occurred. Avoiding significant impact on loss of the colony from a relocation attempt would require leaving the Goldtooth intact, hoping another colony will form in years, just as the current colony is forming fifteen years after the loss of the Briggs colony in 1995.

Fundamentally, the only way the proposed action should be approved is after the Goldtooth colony has been shown to have relocated in the area. Significant impact would have then been avoided.

Significant adverse impact to Townsend's Big-eared bats is highly probable. The November EA does not recognize this.

The Proposed Action will evict a functioning maternity colony of Townsend's Big Eared Bat from the Gold Tooth adit, forcing it to search for another suitable site.

The proposed forced eviction is closely similar to forced eviction of a maternity colony of the same species when the Briggs mine was started in 1995. After eviction the colony was not found despite the substantial efforts described in Appendix F. Artificial habitat constructed to attract the evicted bats was unsuccessful. The colony probably perished.

This EA is tiered to the 1995 EIS approving the original Briggs mine. The EIS, in analyzing the environment impact from the Briggs mine, identified significant impact to Townsend's big-eared bats. See Table S.2 on page S-40 of the EIS:

> *Impacts to the Townsend's big eared bat cannot be avoided, but would only be significant if the planned program to encourage the bats to seek alternate roosts is unsuccessful.*

In contrast, the current November 2011 EA states that merely constructing artificial habitat would avoid significant adverse impact and is sufficient mitigation, whether the artificial habitat is used or not. Page 65:

> *The applicant committed measures described above would mitigate impacts to the bat by constructing a maternal habitat to replace the one lost, and would therefore avoid any significant adverse impacts to the bat population of Death Valley, the Panamint Valley, or other local areas.*

No justification exists for the conclusion since there is no requirement for successful relocation. The conclusion that habitat construction, not successful relocation 'would therefore avoid any significant adverse impacts' is unjustified. Mitigation measures that provide no relief from harm is not mitigation. In fact, simple implementation of the mitigation plan does not prevent significant impact. Only successful implementation of the plan prevents significant impact.

Mitigation measures for the 1995 action and the proposed mitigation for the propose action are nearly identical. The 1995 relocation in all probability failed, and so a high probability of failure of the current proposed mitigation can be expected. Both the proposed alternative and the underground mining alternative would evict the bat colony, both requiring mitigation. Based on the probabl 1995 failure, and the mitigation similarities, a Finding of No Significant Impact for either the proposed action or the underground mining alternative described in the November EA is not realistic.

Careful attention to Dr. Pat Brown-Berry's Impact Assessment in Appendix F of the November EA, page 14, underscores the significance of the population of Townsend's in the Panamints.

> The impact could be the permanent loss of the Redlands Canyon maternity colony.
> The colony evicted in 1995 was not incorporated elsewhere in the western Panamints.
> The 1995 action evicted a colony of around 240, the largest in the western Panamints
> Good roosts with available good food are rare in this area.
> Unless the Goldtooth colony moves to Briggs #14, or finds another place [which they did not do in 1995], or the artificial habitat works [which presumes we understand bats preferences well enough, and are able to satisfy those preferences], this colony will be lost. They would have nowhere else to go.

If either the proposed action or the underground alternative, both destroying the Goldtooth habitat, is approved, a significant colony of bats will very likely perish.

The Probability of Relocation Failure is High

The Briggs Mine, around 1994, evicted a large maternity colony of Townsend's Big-eared bats from the Main Briggs adits. The colony quickly relocated to the North Briggs adit. One year later they were evicted from North Briggs. During 1997-1999, prompted by failure to find the evicted colony, artificial habitats were constructed that did not provide habitat. They failed. Appendix F describes the extensive attempts to locate the evicted colony.

During the past five years a maternity colony at the Gold Tooth adit has been growing. It is now about half the size of the original displaced Main Briggs colony. The November EA does not explain why relocation of this colony after eviction will succeed, despite the apparent relocation failure of the very similar 1995 eviction. Instead, the EA proposes mitigation measures remarkably similar to the 1995 mitigation that led to probable relocation failure. In consideration of the previous failure, the probability of relocation failure for the proposed relocation is high.

If relocation fails, the mitigation will have provided no relief from harm, and cannot be considered mitigation.

The mitigation proposed in the November EA is substantially the same as the 1995 mitigation measures.

The November EA proposes techniques to mitigate eviction of bats from the Goldtooth mine that were used unsuccessfully for the 1995 Briggs mine. This is clearly stated in the EA, page 64.

> *Mitigation measures and reclamation practices for the Proposed Action include existing measures used for the currently permitted mine: These measures would be implemented for the Proposed Action to minimize potential impacts to wildlife habitat.*

It should be noted that the November EA does leave room for additional measures, proposed also on Page 64:

> *Briggs would initiate a mitigation strategy for the Townsend's big-eared bat that has been developed with inter-agency and professional biological input, for the removal of the Goldtooth adit*

November EA page 25:

> *The reclamation and mitigation measures for the Proposed Action would be the same as the existing measures for the currently permitted mine with the exception of mitigation measures required for the Townsend's big-eared bat.*

However, and despite the statement on page 25, the measures proposed are largely the same as the 1995 measures. A comparison:

FEIR	Page	November 2011 EA	Page
A program to encourage Townsend's big-ear bats to seek alternative maternity roost sites would be implemented. The following procedure is proposed to complete this effort.	S-40	Mitigation measures and reclamation practices for the Proposed Action include existing measures used for the currently permitted mine: These measures would be implemented for the Proposed Action to minimize potential impacts to wildlife habitat.	64
Adits at the site would be closed (gated or excavated) after inspection indicates no bats are inside. This would force the bats to seek alternative roost sites.	S-40	Bats would be excluded from the Goldtooth adit prior to mining activities...	64
Additional surveys would be conducted to locate alternate roosts of the banded bat colony the following spring.	S-40	The remaining mines near Redlands Canyon that were located in 1989-1994 would be revisited in spring 2012 for signs of a maternity colony. Cecil R, Anthony Mill and Jackpot would be surveyed at least once a year to continue monitoring Townsend's big-eared bat population trends.	65
Based on land status, access, etc., security gates or other measures would be provided at the alternate roost sites as required to protect the colony from vandals.	S-40	The paragraph at the top of the page describes maintaining bat gates at other mines in the area.	65
Monitoring of the bat colony and fluctuations over time would be conducted to determine the effectiveness of the mitigation measures.	S-40	Adit #14 would be surveyed in the spring and summer of 2012 and 2013, during the maternity seasons, to determine if it has been accepted as an alternative maternity roost site.	
		Cecil R, Anthony Mill and Jackpot would be surveyed at least once a year to continue monitoring Townsend's big-eared bat population trends.	65, top

FEIR	Page	November 2011 EA	Page
Canyon [the mine owner at that time] should perform habitat enhancement for the Townsend's big-eared bat. Habitat enhancement should be tiered based on the success of the planned measures to encourage the bats to seek an alternate roost site, as follows:	S-41		
Canyon should provide a gate to preclude undesirable human access at the Gold Tooth adit located bear the Briggs project site.	S-41	Cecil R, Anthony Mill and Jackpot... Bat gates would be maintained. The lower Jackpot gate would be repaired and an additional gate would be installed at Anthony Mill.	65
If the maternity colony of big-eared bats cannot be determined to have relocated successfully, Canyon should perform habitat enhancement at one or two additional adits in the vicinity. Enhancement of two additional adits should be required if gating of the Gold Tooth adit does not improve habitat at that location., as indicated by the level of use by this species. If an alternate maternity roost is not located, Canyon may construct an artificial adit.	S-41	Adit #14 would be surveyed in the spring and summer of 2012 and 2013, during the maternity seasons, to determine if it has been accepted as an alternative maternity roost site.	64
		If after two years it is determined by the authorized officer, in consultation with a qualified biologist, that the Townsend's big-eared bats do not accept Adit #14 and if no new sites are discovered near Redlands Canyon, then Briggs would construct a new suitable maternity habitat with the same temperature regimes and with sufficient volume to insure thermal stability.	65

Bat Habitat Disturbance is not relatively marginal, as the November EA claims

The first paragraph of section 4.5.1 on page 62 describes the increase to habitat impact.

> *Under the Proposed Action, an increase in total habitat disturbance would occur, but would be relatively marginal since the habitat was disturbed by previous exploration and mining activities.*

Considering the maternity habitat in the Goldtooth adit will be destroyed under both the proposed action and the underground mining alternative, the impact will be total, not relatively marginal. Previous habitat destruction cannot be used to justify more habitat destruction. The relatively marginal conclusion in the quoted paragraph is specious.

The statement is not realistic. It's equivalent to accepting more crime since more is only a marginal increase from existing crime.

Cumulative Impact to the Townsend's Big-eared Bats is highly probable.

Para 4.75 on page 69 states:

> *...the maternity colony will be relocated...*

The statement predicts relocation with certainty. But relocation is not certain or assured, as explained above. In addition, the November EA requires only mitigation efforts. The EA does not require relocation success. The last sentence in the same paragraph on p.69:

> *Mitigation efforts as described in Section 4.5.2 are designed to replace the lost maternity habitat and avoid impacts to bats, and therefore the Proposed Action would not create a cumulative impact.*

This paragraph uses the goal of the mitigation design to conclude no cumulative impact. It glaringly omits that only achievement of the goal can prevent cumulative impact. It falsely substitutes mitigation design for mitigation success. The necessary middle step of successful relocation is missing. The conclusion is unjustified.

Despite the November EA's assumption of relocation success, under the provisions of this EA relocation failure is highly probable. Failure to relocate this colony, which has only managed to get started 10-15 years following the

1995 destruction of the Briggs colony, would be substantial and significant cumulative impact. The statement that the proposed action will not create a cumulative impact is incorrect.

Eviction from the Goldtooth adit is not protective, as stated in the November EA.

Page 64 of the EA has the astounding statement:

> *To protect the maternity roost from harm, bats would be excluded from the Goldtooth adit prior to mining activities.*

But eviction does not protect. Eviction harms. The 1995 evictions probably destroyed the colony. I suspect the author meant 'To protect the maternity roost from harm caused by mining...'. But this would pretend harm from eviction is acceptable while harm from mining is unacceptable.

The same EA paragraph states:

> *Since the bats do not hibernate in the Goldtooth adit, it is recommended by Dr. Brown-Berry that adits are closed during late October to early November when most bats have dispersed for the winter season.*

This statement indicates the bats do not use the mine during the eviction period. Closing the Goldtooth to prevent hibernation when the adit is not used for hibernation seems not to make sense. Unexplained is the purpose of evicting the maternity roost when the maternity roost is not present. Justification for these statements is not obvious, and must be explained.

The EA fails to justify closing the adit.

Alternatives

Discussion and analysis of the alternatives is insufficient to make a reasonable judgment between them and the proposed action.

No Action Alternative

Loss of Gold to the Market

The No Action alternative describes loss of gold available to market. This is not an environmental effect and should not be included in an environmental assessment.

Air Quality (4.1.4, p.58)

The two sentences in this section don't make sense. They say mitigation measures would continue for the 2-4 years of non-operation to support 'these activities'. What activities happen under the No Action alternative. In fact, air quality would not be an issue and would not require mitigation if the No Action alternative is selected.

Greenhouse Gas (4.2.4, p.58)

The section states there will be no GHG increase, but does not mention GHG decrease. It should also state there will be a GHG decrease from the current mining level under the No Action alternative.

Soils (4.3.4, p.60)

This section also discusses backfilling.

The section states that reclamation activities will be affected and that backfill material will not be available. The expanded mining will be open pit, creating potentially more unfilled pits.

This is a simplistic description. To understand the environmental effects of pit filling, the section must compare both filled and unfilled pit configurations after mining is complete under both the proposed alternative and the no action alternative. The November EA should also describe character differences of the remaining filled and unfilled pits.

Vegetation (4.4.4, p.61)

This section has a statement about waste rock and backfilling that belongs in the soils section where the soils section discusses backfilling.

Underground Mining Alternative (2.2, page 26)

Analysis of this alternative is insufficient.

- It uses an outdated gold price, and makes no attempt to analyze the range and distribution of probable prices of gold for the projected life of the mine.
- It uses a single number for cost of mining, independent of mine location, mine size, price of materials, labor, supplies, mining methodology, ore distribution, cost of doing business, or other characteristics specific to this mine.
- It mentions rejection of underground mining for the original development of the mine in 1995, but draws no conclusion from that statement. Presumably this statement is meant to justify rejection of underground mining for the proposed action, a justification that would be inappropriate because of the vastly different conditions.
- It makes no analysis of greenhouse gas emissions, dust, air and light pollution, or impacts to wildlife under the underground mining alternative.
- I does not discuss impact to Townsend's big-eared bat, or other wildlife. I might presume impact to the bats to be the same as the proposed action since the Goldtooth adit would probably be destroyed. But such an estimated assumption is inappropriate. A more careful analysis is needed.

It's impossible to make a considered decision among the alternatives with this thin analusis.

Native American Consultation is Lacking

No decision on the November EA should be made until consultation with the Timbisha has been concluded. Consultation with Native Americans, as described in the EA, is insufficient.

Page 33 states that consultation has been initiated, by a Jan 10, 2011 letter to the Timbisha. It does not state that consultation has taken place or been completed, nor is consultation described in the body of the EA. Appendix A2 of the EA is the Jan 10, 2011 letter from Hector Villalobos, Field Manager of the BLM Ridgecrest office, to Joe Kennedy, the Tribal Council Chair for the Timbisha in Death Valley. The letter invites consultation as part of the BLM's government to government relations. The EA contains no indication that a consultation has taken place. It appears, though the EA does not state, that there was no response to the letter.

A single invitation--essentially a notification, with no response, does not satisfy the spirit or letter of BLM's responsibility for consultation. It does not consider political situations within the tribe, or that the invitation may have not been properly received by this important group of people with sensitivities often different that our own. Silence cannot be construed as acceptance. Failure to responsibly and aggressively pursue consultation, meant to ultimately include the Timbisha, is not acceptable. The single letter does not satisfy the form of diligence required in this situation.

More specifically, the November EA does not describe additional efforts or results of consultation with the Timbisha, as required by BLM policy. Reference is to the BLM site http://www.blm.gov/wo/st/en/prog/more/CRM/tribal_consultation.html, which specifies:

> *Tribal consultation regarding public-land activities has 4 essential elements:*
>
> *• Identifying appropriate tribal governing bodies and individuals from whom to seek input.*
>
> *• Conferring with appropriate tribal officials and/or individuals and asking for their views regarding land use proposals or other pending BLM actions that might affect traditional tribal activities, practices, or beliefs relating to particular locations on public lands.*
>
> *• Treating tribal information as a necessary factor in defining the range of acceptable public-land management options.*
>
> *• Creating and maintaining a permanent record to show how tribal information was obtained and used in the BLM's decision making process.*

These activities are not described in the November EA. If they have been done, the EA should describe. If they have not been done, they must be before a decision on the EA can be made.

Purpose and Need

Inyo County's purpose supports the No Action alternative.

Inyo County's stated purpose for the Proposed Action (p.3, bottom) is:

> *"to preserve, protect and enhance the natural and human environment of Inyo County"*

Since the Proposed Action will do substantial ground disturbance, it will neither preserve, protect nor enhance Inyo County's natural environment. Instead, it will damage these qualities.

Neither will the proposed action preserve, protect or enhance the human environment, since, absent implementation of the proposed action, there is no human environment at the location to be preserved, protected or enhanced. The location's use is as a natural area, appreciated by passersby and recreationists (following termination of mining activities). The qualities that enable this appreciation will be not be preserved, protected or enhanced.

Only the No Action alternative would support Inyo County's purpose.

Inyo County's stated need is incorrect:

The same paragraph states that Inyo County's need for the Proposed Action is:

> *to "incorporate environmental constraints and considerations into the project at the earliest possible time, enabling revisions in the project plans as may be necessary and agreed to by the applicant, thereby mitigating adverse impacts."*

This is incorrect. The quoted statement describes a need for participation in creating the Environmental Assessment. It is not a need for the Proposed Action.

The proposed Plan of Operations is being implemented without a permit

Page 64 states:

> *Following discussions, it was decided that the Goldtooth adit would be closed in the fall of 2011, prior to planned mining activity.*

This closure is implementation of the proposed action, without a permit. The project has started. Starting before permitting is a clear indication that the November EA is not objective, that approval of the Proposed Alternative has been decided, the other alternatives described in the EA have been rejected, and therefore the purpose of the EA has been negated.

Page 19 states:

> *Based on the timing of the construction schedule, Briggs will close the bat habitat at the Goldtooth adit permanently in the fall of 2011 if planned mining operations are approved before the next maternity season.*

This statement is confusing. As written it's impossible. It says Briggs will close the Goldtooth in the Fall of 2011, depending on later approval of mining operations. (The next maternity season would be May or June of 2012.) The Goldtooth adit was, nonetheless, closed in November 2011.

Unless there is a clear mistake in the statement, or other considerations exist, this is additional evidence that the expected decision is to approve the Proposed Alternative, and that the decision will be made before the 2012 maternity season, or perhaps has already been made.

Sincerely,

Tom Budlong

Tom Budlong
Voice: 310-476-1731
Fax: 310-471-7531
email: TomBudlong@RoadRunner.com

Brad Henderson

Habitat Conservation

California Fish & Game Department

407 West Line Street

Bishop, CA 93514

(760) 872-1171

December 7, 2011

Comment 1: Section 4.8 Organizations and Persons Consulted

Request address be changed on page 70.

Response 1

Address changed as requested

California Department of Fish and Game
Bishop Field Office
407 West Line Street

Bishop, California 93514
Tammy Branston
(760) 200-9158

Comment 2: Section 4.5.2 Mitigation: Applicant Committed Measures

Bullets 2 and 6 describe measures to be "determined by the authorized officer, in consultation with a qualified biologist". Please specify who represents the "authorized officer".....All bulleted proposed measures describe actions that "would" or "will" be taken...The words "would" and "will" should be replaced with "shall" throughout the six bulleted mitigation measures on pages 64-65.

Response 2

"Would" has been replaced with "will" and "shall". "Authorized Officer" and "qualified biologist" have been clarified as follows: ...the BLM authorized officer in consultation with a BLM approved qualified bat biologist familiar with bat populations in the California Desert.

APPENDIX A

EXISTING DECISIONS AND STIPULATIONS

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Ridgecrest Field Office
300 South Richmond Road
Ridgecrest, CA 93555-4436

IN REPLY REFER TO
3809
CACA-33490
CA650.54

Decision Record

Finding of No Significant Impact and
Approval of the CR Briggs Mine Pit Expansion
under 43 CFR 3809

NEPA Compliance Document Number CA650-NEPA99-164

SUMMARY

The BLM has prepared a Finding of No Significant Impact (FONSI) to complete the Environmental Assessment (EA) for the CR Briggs Mine Pit Expansion. The EA was prepared to analyze the type and degree of environmental impacts and associated mitigation measures stemming from a proposed amendment to the CR Briggs, 43 CFR 3809 Plan of Operations. The plan amendment will add two satellite mine pits to the existing CR Briggs mining operation. The EA is tiered to the Briggs Project Final EIS/EIR (May 1995). The mine is located in the Panamint Valley east of Trona, California on lands and resources administered by the Bureau of Land Management, California Desert District, Ridgecrest Resource Area Office.

The proposed amendment to the Briggs mining operation was disclosed to the public by means of a 4 page project summary mailed out to interested parties on August 25, 1999. The Environmental Assessment was mailed to responding parties for a 30 day comment period from November 9, 1999 to December 9, 1999. The comment period was subsequently extended to January 8, 2000 based upon public interest and request.

Public comments to the EA are summarized. BLM responses to public comment are categorized under pertinent headings such as desert bighorn sheep, time duration of mining, etc. Public comment on the mine pit expansion was almost entirely oppositional. Critical comments were weighed within the scope of the National Environmental Policy Act (NEPA), and the BLM land-use plan (California Desert Conservation Area Plan) affecting the project area. All of the comments could be answered within the purview of analysis completed in the Briggs Project Final EIS/EIR (May 95) and the EA for the mine pit expansion.

The BLM has approved the mine pit expansion under regulations for Surface Management (of Mining) at 43 CFR 3809. Mitigation measures/stipulations, applicable to the mine pit expansion, are listed at the end of the document.

INTRODUCTION

On July 10, 1995, the BLM/Ridgecrest Resource Area approved CR Briggs Plan of Operation for a gold mining operation on public lands in the southern Panamint Valley east of Trona, California In an effort to continue to develop the available mineral resources of the area, CR Briggs did exploration drilling in the North Briggs and Gold Tooth area which are respectively located north and south of the main mine pit at the Briggs mine. The drilling program was done under a Plan of Operations approved by the BLM on November 26, 1996. The North Briggs and Gold Tooth satellite orebodies were discovered during the exploration drilling.

On July 14, 1999, CR Briggs filed an amendment to the 1995 Plan of Operations and proposed to mine the North Briggs and Gold Tooth orebodies. The mine pit expansion would add the North Briggs pit (50 acres) and the Gold Tooth pit (28 acres) to the Briggs mine. No other mine facilities would be added or expanded. Ten acres of the North Briggs pit were approved for surface disturbance in the 1995 Plan of Operations. Thus the proposed new surface disturbance is 50 - 10 + 28 = 68 acres.

In 1994, Congress passed the California Desert Protection Act which affected land use designation in the Panamint Range. Lands which includes CR Briggs unpatented mining claims around the current mining operation and in the southern Panamint Range were excluded from wilderness designation and returned to Multiple-Use Class L management. The intent of the exclusion was to allow Canyon Resources Corporation, the parent company of CR Briggs Corporation, a 10 year period to explore for and develop mineral resources in the Panamint Range. At the end of the 10 year period (October 31, 2004), the wilderness potential of the southern Panamint Range would be open to reassessment.

The BLM is required by the National Environmental Policy Act of 1969 (NEPA) to review the environmental impacts of the proposed mine pit expansion through the preparation of an environmental analysis. The proposed mine pit expansion will result in environmental impacts and mitigation measures essentially the same as those analyzed in the Briggs Project Final EIS/EIR released in May 1995. The range of alternatives analyzed in 1995 is also pertinent to the proposed pit expansion. Therefore it was appropriate to tier the environmental analysis of the mine pit expansion to the Briggs Project Final EIS/EIR. In this case, the prepared document is an Environmental Assessment (EA). The purpose of this document and its accompanying FONSI is to analyze and mitigate the impacts on the resources of the public lands as a result of the mine pit expansion.

The EA and FONSI are available for the public at the BLM office at 300 S. Richmond Rd. Ridgecrest, CA 93555.

PUBLIC INVOLVEMENT

A project summary of the proposed mine pit expansion was mailed out on August 25, 1999. Mail recipients were compiled from the mailing list for the Final EIS/EIR and from public comment letters to the Draft and Final EIS/EIR. Approximately 150 summaries were mailed. Thirty-eight requests for the completed EA were received. According to 40 CFR 1501.4(e)(1) & 1506.6 (b), the EA and prospective FONSI were made available for a

30 day public review starting on November 09, 1999. Notification of the availability of the EA & FONSI in the Ridgecrest and Independence (California) newspapers were made at the time of release of the EA. The first comment period concluded on December 09, 1999 but was subsequently extended another 30 days to January 8, 2000. Ultimately 49 copies of the EA were mailed out to the public.

RESPONSE TO THE PROJECT SUMMARY

Regarding the project summary, comment letters were received from a representative of the Owens Peak Group of the Sierra Club and from a representative of the California Association of Four Wheel Drive Clubs, Inc. The first letter commented on light pollution from night lighting at the Briggs mine, monitoring and protection of bat habitat during mining of the Gold Tooth pit and support for the concept and implementation of partial backfilling. The second letter requested a copy of the EA and Plan of Operations for the mine pit expansion.

The Timbisha Shoshone Tribe received a copy of the Plan of Operations for the mine expansion as part of formal consultation with the Tribe. A tribal member visited the mine on August 30, 1999. The Tribe commented by letter received by the BLM on September 20, 1999. In the letter the Tribe stated its ongoing opposition to the Briggs Project and general opposition to mining within the area of the tribal homeland. Mining is considered by the Tribe to be an extreme desecration of their homeland. The tribe also requested clarification of pit acreage and acreage of new surface disturbance.

The California Department of Fish and Game (CDFG) commented by letter, dated September 21, 1999, to the proposed mine pit expansion. The letter expressed concern about further impacts to the Townsend's big-eared bat from mining of the Gold tooth pit. The southern perimeter of the mine pit is only 241 feet from the historic Gold tooth mine which is habitat for the Townsend's big-eared bat. Two historic adits in the main Briggs pit were consumed during excavation of the pit. Both of these adits were Townsend's big-eared bat habitat.

PUBLIC COMMENT TO THE ENVIRONMENTAL ASSESSMENT

Twenty-three comment letters were received from individuals and sixteen letters were received from organizations. Five letters expressed support for the Briggs mine pit expansion and the remaining letters were opposed to the expansion.

A number of one-page letters expressed three concerns or requests:

The environmental impacts of the pit expansion were significant.
The comment period should be extended beyond the original 30 day period.
An EA is insufficient and an Environmental Impact Statement should be prepared.

Various resource, procedural and legal issues were expressed in the 36 comment letters. Many of the issues were repeated from letter to letter. The following three letters were the most lengthy and included the entire scope of issues. Issues are itemized for each letter. In the section, 'BLM Responses to Comments', related issues are grouped together as a heading and followed by a BLM response.

Letter from the organization, "Desert Survivors." received 12-09-99

Issue: Definition of 'No Action Alternative' for this EA.

Issue: Life of mine will be extended one to two years over present projections rather than six months to one year over original projection in EIS/EIR.

Issue: No estimated tonnage figures for ore and waste rock by pit are presented for impact comparison by public. Distinction between waste rock and overburden.

Issue: Seeming disparity between waste rock tonnages and capacity of waste rock piles.

Issue: Visual impact of mining three pits and no backfilling after possible shutdown of main pit.

Issue: No information on ground water or surface water impacts of two new mine pits.

Issue: Alternative of no new pits and partial backfill of main pit rather than reclamation of off-site mitigation projects.

Issue: Variable gold price scenarios and possible impact on mining and backfilling.

Issue: Missing bighorn sheep study.

Issue: Request for supplemental EA.

Letter from Death Valley National Park received on 12-13-99

Issue: Ground water and surface water impacts of the new mine pits.

Issue: Effect of a seismic event on backfill deposited at angle of repose.

Issue: Distinction between 200 foot buffer versus 25 foot rock buffer for mitigation of impacts to Townsend's big-eared bats.

Issue: Exclusion of bats from underground habitat prior to maternity season.

Issue: Success of artificial bat habitat dependent upon colonization. If no colonization, then possible significant impacts.

Issue: Bighorn sheep study and possible adverse impacts to bighorn sheep.

Issue: Night lighting and visual impacts to Death Valley National Park.

Issue: Possible adverse impacts to wetlands due to ground water drawdown.

Issue: Visual resources and Wetlands and Riparian as affected resources.

Two letters from the organization, 'Great Basin Mine Watch," received on November 29, 1999 and December 28, 1999.

Issue: Company could completely walk away from project after mining North Briggs pit

with no backfilling. Financial analysis of each stage of mining as it relates to environmental impacts and mineral discovery.

Issue: Guarantee that the (North Briggs) pit will be backfilled including a reclamation bond to that end.

Issue: Entire facility is built on lode claims...illegal use of lode claims.

Issue: Briggs is piecemealing the project.

Issue: Water usage and recycling during rinsing the heap leach pad. Water management after closure of the heap leach pad.

Issue: Impacts to bighorn sheep and mitigation for lost bighorn sheep habitat.

Issue: Ground water usage and effects on Panamint Valley aquifer and Redlands Spring.

Issue: Impacts to Townsend's big-eared bats at historic Gold Tooth mine...

Issue: Request that BLM do an EIS on this project rather than existing EA.

BLM Responses to Comments

Issue: Definition of 'No Action Alternative' for this EA.
The No Action Alternative is the continuation of existing actions or conditions. In this case, the No Action Alternative is the continuation of the project as described in the Briggs Project Final EIS/EIR signed in 1995. That analysis proposed a mine pit of 112 acres and removal of 21 million tons of ore and 27 million tons of waste rock. No mining operation ever conforms exactly to the pre-mining projections. The citation of the current projected size of the main pit (88 acres) was done to disclose information to the public. If gold prices were to rise dramatically, CR Briggs would be permitted to mine the entire 112 acres in the main pit without any new environmental review. Also the No Action Alternative rests on the project as described in the Final EIS/EIR and not on ever changing conditions of gold price, actual pit configuration, etc. For the same reason, an analysis is not required for the reduced impacts of an 88 acre pit versus the original projected 112 acre pit.

The same analysis applies to the extension of the life of the mine by six months to one year beyond that cited in the EIS/EIR. The EA could have specified that the mine would shut down from six months to one year sooner than anticipated in the Final EIS/EIR **'based on current gold prices'**. This statement gives the public an idea of current projections but the time baseline for assessing the impact of the proposed new mining is the life of mine estimated in the Final EIS/EIR.

Issue: No estimated tonnage figures for ore and waste rock by pit are presented for impact comparison by public. Distinction between waste rock and overburden.
The North and South Waste Rock Piles were sized to hold 42 million tons of waste rock which is most of the expected waste rock from the downsized main pit (88 acres) and the two new mine pits. A minimum of 16 million tons must be backfilled into the mine pits to dispose of the maximum projected tonnage of 58 million tons of waste rock. CR Briggs will make every effort to backfill more than 16 million tons of waste rock since it is

economically advantageous to do so. Backfilled waste rock will cost much less to place and to reclaim than the same rock on the waste rock piles. Also Briggs has not requested an increase in the area of the waste rock piles and the two piles cannot hold more than their design capacity of 42 million tons. Because the waste rock piles must be graded out to a final slope of 2.5:1, horizontal to vertical, the piles cannot simply be stacked higher to accommodate more waste rock.

Waste rock occurs as both overburden as well as uneconomic rock mixed in with the gold ore. Thus the mine pits still generate waste rock after the overburden has been removed.

Issue: Visual impact of mining three pits and no backfill after shutdown of main pit.
Issue: Visual Resources as an Affected Resource
Issue: Night lighting and visual impacts to Death Valley National Park.
The Briggs Project Final EIS/EIR presents a lengthy analysis of visual resources and mitigation of visual impacts for the original Briggs Project. In the mine pit expansion, the highwall of the two proposed mine pits will expose rock which will be lighter in color than the preexisting surface rock Some elements of the public consider any visual alteration of the landscape to be adverse. However, there is no fundamental or regulatory basis to decide that a lightening of an area of rock face on the mountainside is an adverse impact. In the absence of any criteria, the visual impact of the lightened rock face can only be compared to the background of the Panamint Range. The Panamint Range presents a steep, erosionally scarred west face which has a low vegetative density. Faulting has juxtaposed a variety of rock masses of different colors. For example, a large mass of light-colored rock set against a background of much darker rock is present immediately south of the mine and higher on the mountainside. In the overall visual context, the Briggs mine and mine pit expansion will not starkly contrast with the west face of the Panamint Range.

In the NEPA process, the BLM works with the project proponent and the public to devise measures to reduce the visual impacts both during and after the project is completed. Although visual impacts are routinely analyzed and mitigated in large projects, visual resources is not typically considered an affected resource because of the inherent subjectivity of assessing or experiencing the human viewscape.

At the close of the Briggs Project, the waste rock piles and leach pad will be recontoured and revegetated. This action will blend these features back into the prevailing topographic and visual landscape. The linearity of benching on the pit wall is difficult to see from most visual perspectives at the present time. Minor rock falls from the pit wall will act to further mask the horizontal edges of the pit benches. Benching in the North Briggs pit will be covered with backfilled waste rock.

The BLM investigated night lighting in 1998 to see if any further alteration of lighting could reduce glare as observed in the Panamint Valley. Adjustments to lighting were made at that time. The mine is not within a wilderness area or a national park. The mine uses lights to maintain a safe night-time working environment. Under the present timeframe, mining will close in 2003 and reclamation will be essentially complete in 2004. Thus night lighting at the mine will end in approximately 4.5 years.

Issue: Alternative of no new pits and partial backfill of main pit rather than reclamation of off-site mitigation projects.
The Partial Backfilling Alternative was analyzed in the Briggs Project Final EIS/EIR (May 1995) and was not chosen because of greater environmental impacts than the preferred

alternative. The preferred alternative included offsite reclamation of abandoned mine or mill sites in the Panamint Valley region. The BLM will not revisit an alternative which was fully analyzed in the past. The BLM cannot mandate a shutdown of the current project or prevent CR Briggs from applying to expand their current operation.

Issue: Variable gold price scenarios and possible impact on mining and backfilling.
Issue: No backfilling after possible shutdown of main pit.
Issue: Company could completely walk away from project after mining North Briggs pit with no backfilling. Financial analysis of each stage of mining as it relates to environmental impacts and mineral discovery.
Issue: Guarantee that the (North Briggs) pit will be backfilled including a reclamation bond to that end.
The above issues rest on "what if" scenarios which generally have no place within the NEPA process. The BLM analyzes the environmental impacts and mitigation measures of proposed surface disturbance. A mining application will propose to disturb an area of mine pit at the highest expected gold price during the period of mining. Thus the 78 acres in the North Briggs Pit and the 28 acres in the Gold Tooth Pit are designed for a gold price of $350.00/troy ounce. No authority exists to consider smaller pits (for example $300/troy ounce pits) as a viable alternative because this is an infringement of the right to mine under the mining laws. If gold sells for less than $350/troy ounce during mining, the pits will be smaller by necessity and not by any imposed alternative.

The BLM does not typically examine the validity of mining claims included in a mining Plan of Operations unless an area has been withdrawn from the operation of the mining laws. The Briggs Project is not in a withdrawn area and the BLM has no other reason to question the validity of the affected mining claims. The Briggs mine has produced nearly 84,000 troy ounces of gold and a lesser amount of silver in 1998 and 1999. The mine shows every indication of being an economically viable operation. The current low gold prices, as compared to prices at the start of the project, have cut into profits and have reduced the amount of ore reserves and the size of the main pit. The reduction in the size of the main pit in no way constitutes an abandonment or walking away from part of the pit.

CR Briggs has proposed to backfill waste rock in their amendment to the Briggs mine plan. If mining is approved for the two new pits in January 2000, then Briggs has committed to backfill 16.9 million tons at current gold prices. The BLM recognizes that it is in the economic interest of the company to backfill as much waste rock as possible. The BLM also recognizes that timing and the variables of gold price will control pit size and waste rock tonnages. Thus the BLM will not mandate a set amount of backfill or where the backfill is placed. There is also no reason to believe that the main pit will be abandoned prematurely.

Issue: Alternative of no new pits and partial backfill of main pit rather than reclamation of off-site mitigation projects.
The Partial Backfilling Alternative was analyzed in the Briggs Project Final EIS/EIR (May 1995) and was not chosen because of greater environmental impacts than the preferred alternative. The preferred alternative included offsite reclamation of abandoned mine or mill sites in the Panamint Valley region. The BLM will not revisit an alternative which was fully analyzed in the past. The BLM cannot mandate a shutdown of the current project or prevent CR Briggs from applying to expand their current operation.

Issue: Effect of a seismic event on backfill deposited at angle of repose.

During a seismic event some waste rock resting at the angle of repose may move downslope into the lower pit area. Any movement of waste rock at the lower end of the pit would tend to buttress the remaining material above it.

Issue: No data on ground water or surface water impacts of two new mine pits.
Issue: Ground water and surface water impacts of the new mine pits.
The main (existing) Briggs pit has not intercepted ground water and will not reach the water table as specified in the Final EIS/EIR on page 3.3-18. Depth to groundwater was established through several deep exploration drill holes. The North Briggs and Gold Tooth pits also will not intercept ground water. The latter two pits are not in the Redlands Canyon drainage and have negligible drainage areas above them on the steep mountainside of the Panamint Range. The amount of surface runoff from the respective pit areas and from the minute drainage area above them will be negligible.

Issue: Missing bighorn sheep study.
Issue: Bighorn sheep study and possible adverse impacts to bighorn sheep.
Issue: Impacts to bighorn sheep and mitigation for lost bighorn sheep habitat.

A Bighorn Sheep Technical Review Committee was organized to coordinate the bighorn sheep study and ultimately to meet and discuss the results of the study and to develop mitigation measures, if necessary, for protection of the Redlands population of bighorn sheep. The committee members include the BLM, Death Valley National Park (DVNP), California Department of Fish and Game and CR Briggs Corporation. The study has been completed but to date the individual agencies have not met to discuss the results. Any conclusions about the results of the study by any of the committee members would be premature at this time.

Prior to development of the Briggs mine bighorn sheep traversed through the area, but it was not critical habitat for the sheep. Critical habitat for the sheep is located above the mine operation in Redlands Canyon. Forage, bedding and lambing sites are situated in Redlands Canyon and at Redlands Spring. These sites will not be affected by the proposed mine pit expansion. Although the bighorn sheep avoid the mine site, it does not impede their movement throughout the Panamint Range and Panamint Valley. Bighorn sheep are periodically observed on the mountainside just above the mining operations. After mine closure, the sheep will most likely reoccupy the area.

Issue: Distinction between 200 foot buffer versus 25 foot rock buffer for mitigation of impacts to Townsend's big-eared bats.
Issue: Exclusion of bats from underground habitat prior to maternity season.
Issue: Success of artificial bat habitat dependent upon colonization. If no colonization, then possible significant impacts.
Issue: Impacts to Townsend's big-eared bats at historic Gold Tooth mine...
The nearest tunnel (adit) entrance of the Gold Tooth mine is 241 feet from the proposed pit face. The adit is developed parallel to the proposed Gold Tooth mine pit. At 80 feet, the adit intersects a crossing drift which moves directly towards the proposed mine pit and ends within 27 feet of the pit highwall. Briggs will maintain a 25 foot rock buffer between the pit highwall and the end of the underground drift in order to prevent a breakthrough into the drift during mining of the pit face. The BLM will require Briggs to employ lower impact blasting in the vicinity of the drift to prevent or reduce any rock falls within the underground drift. The Gold Tooth adits and drifts have already been surveyed by CR Briggs. Routine surveying of the pit face will provide an ongoing record of closure between the pit face and the end of the underground drift. The collapse of the

underground workings due to mining of the Gold Tooth pit is a remote possibility. Some minor falls-of-ground may occur in the underground tunnels due to blasting in the Gold Tooth pit. This would not likely compromise the use of the tunnels by the bats. The stipulation for construction of a bat gate at an existing underground bat habitat or construction of a new batitat is contingency mitigation and is unlikely to be needed since collapse of the Gold Tooth mine tunnels and destruction of the bat habitat has a low probability.

"If BLM decides to temporarily exclude the bats from the Gold Tooth mine during the time that mining is most proximal to the historic mine, CR Briggs will close the adits as directed." This statement is proposed by CR Briggs Corporation and doesn't obligate or define BLM actions. On page 29, paragraph 5, it states, "It may be necessary and desirable to exclude the bats prior to the maternity season..." Thus any exclusion of the Townsend's big-eared bats would be done prior to maternity use of the underground mine. The BLM will exclude bats from the historic Gold Tooth mine only if it appears to be absolutely necessary.

CR Briggs Corporation made the proposal to construct artificial replacement habitat if the Gold Tooth mine becomes unusable as bat habitat. On page 30, paragraph 1, the BLM proposes two options for mitigation if the bat habitat at the Gold Tooth mine is destroyed by mining. One option is for construction of a new batitat in the Panamint Valley. The second option is for gating of an additional underground habitat of the Townsend's big-eared bats. Again these contingency measures are based on the unlikely possibility that the underground habitat will be destroyed or made uninhabitable.

CR Briggs constructed an experimental bat habitat in 1997. The construction of the habitat was purely on their own initiative and was not accepted as an agency-approved mitigation measure. The artificial bat habitat constructed in 1999 was approved by the BLM and California Department of Fish and Game and was constructed such that requirements for location, size, orientation, temperature, and air flow have been met. The adoption of the artificial habitat by Townsend's big-eared bats is uncertain and in any event could take several years.

Issue: Ground water usage and effects on Panamint Valley aquifer and Redlands Spring.
Issue: Possible adverse impacts to wetlands due to ground water drawdown.
Issue: Wetlands and Riparian as affected resources.
The ground water withdrawals by the mine are directly correlated to the depression in the water table as expected. There is an analysis of ground water drawdown for the Briggs project on page 4.3-1 of Volume II of the Briggs Project Final EIS/EIR. A projected cone of depression is presented for a pump rate of 400 gpm for 8 years. Current and projected water consumption is 130-140 gpm. The elevation of the Panamint Valley aquifer west of the Briggs mine is approximately 1060 feet. The elevation of Redlands Spring east of the mine is 2550 feet. The two water systems are not related.

The wetlands monitoring program is summarized on page 4-19 of Volume I of the Final EIS/EIR. The expectations of scientists who devised the wetlands monitoring program for the Briggs mine was that a drop in the water table at a wetland would directly impact or harm the vegetation. However, the vegetative decline at the monitored wetlands has not correlated with water table drawdown. The system is apparently more complex than anticipated. The salt-tolerant species at the wetlands is responding to unknown factors. The BLM is undertaking a study to determine what factors may be causing a decline in

vegetation at the monitored wetlands. Remaining vegetation in the monitored wetlands exhibits no signs of stress.
At the present time, the decline in vegetative density at the Briggs and Big Horn wetlands cannot be attributed to ground water drawdown and Wetlands and Riparian is not an Affected Resource.

Issue: Entire facility is built on lode claims...illegal use of lode claims.
The lode claims listed in the EA cover the North Briggs and Gold Tooth pits. Because hard rock gold-bearing ore will be mined from the two pits, it is proper that only lode claims be listed for the mine pit expansion. Only 4 lode claims cover the entire North Briggs pit. Seven lode claims cover the Gold Tooth pit. Two of the claims are largely coincident. Parts of some of the claims on the west edge of the two pits overlap into the North and South Waste Rock Piles. A lode claim may be used for mining-related purposes in addition to the extraction of locatable minerals such as gold. There is no illegal use of lode claims in the mine pit expansion. The BLM is reviewing the existing Briggs operation and claim block for acceptable uses of lode and mill site claims.

Issue: Briggs is piecemealing the project.
The BLM greatly dislikes piecemealing as it creates a burden to the BLM and to other applicable agencies. The mine pit expansion is the first major plan amendment to the Briggs Project. It is in the best interests of the company to include the maximum possible area in the mine pit expansion. The North Briggs and Gold Tooth pits are well defined by drill holes within and adjacent to the two pit areas. CR Briggs has stated to BLM personnel that the proposed 50 acre and 28 acre pits are the largest pits defined by current drilling. There is no indication that the Briggs Project is being piecemealed.

Issue: Water usage and recycling during rinsing the heap leach pad. Water management after closure of the heap leach pad.
The two main uses of water at the Briggs mine are for wetting newly blasted ore and for watering mine roads. By the time of heap closure, the above uses will be minimal. The leach pad will be rinsed and the rinse water will be recycled through the existing process ponds. The rinse water will be aerated and exposed to sunlight for destruction of cyanide. Experience of Briggs personnel at other operations has seen effective rinsing of leach pads to environmental standards in 60 days to 120 days. Rinsing of the Briggs leach pad may take longer but will not require years to complete.

After rinsing to acceptable environmental standards, the leach pad will be recontoured, growth media will be reapplied, and seeding and planting will be done. The pad will be crowned to shed rain water. Surface water will be diverted around the base of the pad. It is the intent of the Lahontan Regional Water Quality Control Board to approve closure of the leach pad only after all dissolved species including cyanide are below regulatory limits and would pose no threat to surface or ground water upon discharge. The Lahontan Regional Board has the primary regulatory authority over design, construction and closure of the leach pad.

Issue: Request for supplemental EA.
Issue: Request that BLM do an EIS on this project rather than existing EA.
The BLM believes that the existing Briggs Project Final EIS/EIR and present EA are more than adequate to analyze the environmental effects and impacts related to the mine pit expansion and that none of the impacts, as analyzed and mitigated, are significant. A supplemental or expanded environmental analysis is not warranted.

FINDING OF NO SIGNI..CANT IMPACT

I have reviewed the above mentioned NEPA compliance document (EA). I have determined that the proposed action is in conformance with the California Desert Conservation Area Plan (CDCA Plan), dated Sept. 1980.

I have determined, based on the analysis in CA650-NEPA99-164 (CR Briggs Mine Pit Expansion) and the supporting analysis in the existing Briggs Project Final EIS/EIR May 1995) and the lack of significant new impacts as defined in NEPA at 40 CFR 1508.27, that this is not an action that would significantly affect the quality of the human environment; therefore, an Environmental Impact Statement is not required. This determination is based on the rationale that significance criteria, as defined by the Council on Environmental Quality (40 CFR 1508.27) are not being met, or if met will be mitigated to a level that will not be significant. The "finding of no significant impact' is defined as a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared (40 CFR 1508.13).

The following rationale was used to determine that significant impacts were not present for each criteria mentioned in 40 CFR 1508.27:

* The short and long term impacts as disclosed in the EA are not considered to be significant to the human environment. The short term impacts from implementation of the proposed action are local; they are not national or regional in nature. The long term impacts resulting from the proposed action will be mitigated upon completion of the final reclamation. Mining will be completed in late 2002 or early 2003. Final reclamation will begin at the cessation of mining and will be finished in 2004.

* Public health and safety are not affected by the proposed action. All considerations to protect public health and safety are properly addressed through permitting by appropriate California State agencies.

* Specific management direction, constraints, and mitigation measures will limit the physical and biological effects to the area.

* There will be no significant irreversible resource commitments or irretrievable loss of resource values such as cultural resources, threatened and endangered species, wetlands or riparian zones.

* There are no known effects on the human environment that are highly uncertain or involve unique or unknown risks.

* The proposed action does not set a precedent for other projects that may be implemented to meet the goals and objective of the CDCA Plan.

* This action does not violate Federal, State or local law or requirements imposed for the protection of the environment.

DECISION

It is my decision to approve implementation of the proposed action under 43 CFR 3809, as described in the NEPA compliance document **CA650-NEPA99-164.** The mine pit expansion will not cause undue or unnecessary degradation of the Federal lands. The mine pits have been designed with the due and necessary degree of slope and benching to comply with mine safety regulations and to extract the known orebody. Continued implementation of the operating conditions, environmental mitigation and reclamation measures included in the Briggs Project Final EIS/EIR and Record of Decision (July 10, 1995) as well as new measures for the mitigation of impacts to Townsend's big-eared bats will also prevent undue or unnecessary degradation of the Federal lands. All measures are listed below.

Authorized Officer

Hector D. Villalobos

Hector Villalobos
Field Manager
Ridgecrest Field Office

Jan. 11, 2000
Date

ENVIRONMENTAL MITIGATION MEASURES

BRIGGS PROJECT FINAL EIS/EIR AND RECORD OF DECISION (JULY 10, 1995), SURFACE MINING RECLAMATION PLAN (SMARA), OTHER STATE AND FEDERAL AGENCY AUTHORIZATIONS

Measures and stipulations included or referenced in the above documents will continue to apply to the Briggs mine pit expansion.

TOWNSEND'S BIG-EARED BAT

CR Briggs has proposed a number of measures to reduce or eliminate impacts to the Townsend's big-eared bats at the historic Gold Tooth mine. The BLM has added a number of additional stipulations to mitigate potential impacts to the Townsend's big-eared bat. Both types of measures are reproduced here for clarity and inclusiveness.

CR Briggs has proposed the following measures to mitigate potential impacts to Townsend's big-eared bats at the Gold Tooth mine portals which lies several hundred feet south of the proposed Gold tooth pit:

> There will be no open pit mining or other mining activity within at least 200 feet of the two gated adits at the historic Gold Tooth mine.
>
> The Gold Tooth pit will leave at least a 25 foot rock wall buffer between the pit wall and the nearest underground excavation at the Gold Tooth mine.
>
> CR Briggs will install bat gates at the Anthony mine. Up to six adits will be gated to protect the Townsend's big-eared bats from human disturbance and minimize cumulative impacts to bats in

the Panamint Valley and surrounding mountain ranges. The gates will be installed before excavation begins at the Gold Tooth pit.

CR Briggs will keep BLM informed of the mining schedule for the Gold Tooth pit. If BLM would decide to temporarily exclude the bats from the Gold Tooth mine during the time when mining is most proximal to the historic mine, CR Briggs will close the adits as directed.

In the event that mining of the Gold Tooth pit causes a collapse of underground workings in the Gold Tooth mine and the workings are no longer usable by the bats, CR Briggs would construct an additional artificial bat habitat at the Anthony mine as instructed by the BLM.

Conditions of approval for the original Briggs Project included the following bat mitigation measures:

Conduct annual monitoring of the historic Gold Tooth mine and other nearby adits for the life of the Briggs Project, to determine, if possible, the location of the displaced bat colony; CR Briggs has recently put forth a definition of life of mine which is acceptable to the BLM. The definition includes completion of all mine pit excavation, recontouring and resoiling of the waste rock piles, haul trucks and loaders are gone from the site and most employees have been dismissed from the project. The leach pad would still need to be reclaimed.

Construct gates over two adits at the Gold Tooth mine to prevent unauthorized human entry and disturbance, in the event that the evicted bats would use the mine as an alternate roost site.

Enhance habitat for Townsend's big-eared bats at one or two additional adits in the vicinity if it could not be determined that the bats relocated successfully. Enhancement of two additional adits would only be required if gating of the Gold Tooth adit did not improve habitat at that location, as indicated by level of use by this species.

If an alternate maternity roost was not located, CR Briggs would construct an artificial adit/bat habitat.

In addition to mitigation measures proposed by CR Briggs and incorporated by project design, the BLM in consultation with the California Department of Fish and Game (CDFG) has included the following stipulations:

The buffer zone of the proposed Gold Tooth mine pit boundary shall be flagged so that equipment operators can see the boundary and remain outside of the buffer zone.

CR Briggs shall employ trim or cushion blasting within 75 feet of the end of the underground drift closest to the mine face.

If mining in the Gold Tooth pit causes a collapse of the underground workings such that the workings are not useable by the bats, or alters air flow or temperature within the workings, CR Briggs shall gate and protect an additional underground bat habitat, or construct another batitat in the Panamint Valley after consultation with the BLM and CDFG.

Night lighting in the Gold Tooth pit and South Waste Rock Pile shall be oriented and shrouded to focus light away from the Gold Tooth portals.

The Gold Tooth mine, the "batitat", the newly constructed bat habitat (cement culvert) , and any off-site mines gated as mitigation shall each be monitored three times during the maternity season on an annual basis. Monitoring would occur in May, July and September of each year for the life

of the Briggs Project. Monitoring will be conducted in order to determine the effectiveness of the mitigation measures.

Monitoring shall be conducted by a qualified bat biologist who holds a MOU with the CDFG. The BLM and CDFG would develop monitoring protocol, but at a minimum surveys would include: maps; methods; date and time of survey; names and qualifications of participants, weather conditions; number of entrances observed; number of bats entering and exiting portals; number of banded bats observed; number of bats remaining in the mine after the outflight survey has been conducted (if mine is entered); temperature within the mine at the roost site; measurement of guano deposition; presence or absence of parasite egg cases.

Monitoring reports shall be forwarded to the BLM and CDFG within 60 days of conducting the surveys.

If the Gold Tooth pit is to be excavated, the bat gates at the Gold Tooth and Anthony mine must be in place prior to commencement of excavation of the Gold Tooth pit or prior to the beginning of the maternity season in the year following.

Any other bats located in mine workings in the proposed mine pit expansion areas or in the vicinity of those same areas, that are likely to be impacted, shall be excluded during the warm season.

CACTUS SALVAGE FROM THE NORTH BRIGGS AND GOLD TOOTH PITS

Cactus shall continue to be opportunistically salvaged from new pit slopes prior to blasting. *Ferocactus sp., Mammillaria sp., Enchinocactus polycephalus, Enchincereus englemanni and Opuntia basilaris* are the species that would be salvaged. The cactus will be replanted at the cactus farm located at the north air monitor station and replanted again during final reclamation. The cactus would be replanted in reclaimed areas such as waste rock piles, pit bottoms, leach pad, process and pond areas, etc. but could not be safely replanted on pit benches or backfilled pit slopes.

AIR QUALITY

1. Continue to following applicable state and federal guidelines i.e. reasonably available control measures (RACM) to control PM-10 emissions from unpaved roads, open storage piles and disturbed surface areas. These include the following:

Source category	Control Measure
Unpaved road	Improve road surface Control vehicular traffic speed Apply dust suppressants
Open storage piles (only if silt content is 5 or more percent)	Use wind screens Use enclosures around piles Apply dust suppressants
Disturbed surface area	Use fences/barriers Vegetate Apply dust suppressants Cover with gravel Compact surface

2. Keep the Great Basin APCD permits current.

3. Curtail activities when wind speeds exceed 25 MPH.

SOILS AND VEGETATION

Backfilled pit bottom areas shall be revegetated. Backfill material shall be recontoured and growth medium shall be applied. Reseeding shall employ a seed mix specified by the BLM and Inyo County, Creosote bush seedlings shall be planted at 10 plants per acre. Follow the existing stipulations for 'Vegetation' in the Briggs Project Final EIS/EIR.

CULTURAL RESOURCES

No Native American artifacts have been located in the area of the North Briggs and Gold Tooth pits. Historic mining artifacts in the Gold Tooth area have been determined to be not eligible for inclusion to the National Register of Historic places. Nonetheless, do not collect or otherwise disturb any historic or prehistoric artifacts which may be encountered in the area of operations. If historic or prehistoric artifacts are encountered during exploration or reclamation activities, operations in the vicinity of the discovered resources shall cease immediately and the operator shall notify the BLM. The BLM will, as appropriate, evaluate the significance of the find and determine the need for mitigation. The operator shall not proceed with potentially disturbing activities until authorized by the BLM.

MONITORING

Monitoring of the analysis and conclusions made in **CA650-NEPA99-164** will be conducted by BLM resource specialists. There will be continued monitoring of bat habitat including the Gold Tooth mine. Backfilling volumes and areas of application will be reported by the mine in reports to the Lahontan Regional Water Quality Control Board, BLM and Inyo County. The progress of backfilling will be monitored during onsite inspections by the BLM and Inyo County.

APPEAL RIGHTS

Within 30 days of the date of this decision, any party to this case who believes that they are adversely affected by the decision may file an appeal with the Ridgecrest office of the BLM (address on letterhead on page 1). If an appeal is taken, the appellant must follow the procedures outlined in the enclosed form, 1842-1 (Information on Taking Appeals to the Board of Land Appeals). Within 30 days of filing an appeal, the appellant must file a Statement of Reasons to the Board of Land Appeals, the BLM office making the decision, the Pacific Regional Solicitor and any other party to the appeal. The appellant has the burden of proof in showing that the appealed decision is in error.

Form 1842–1
(February 1985)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,

AND

2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL . . . . Within 30 days file a *Notice of Appeal* in the office which issued this decision (see 43 CFR Secs. 4.411 and 4.413). You may state your reasons for appealing, if you desire.

2. WHERE TO FILE NOTICE OF APPEAL . . . BUREAU OF LAND MANAGEMENT
300 SOUTH RICHMOND RD.
RIDGECREST, CA 93555

SOLICITOR ALSO COPY TO . . . . PACIFIC REGIONAL SOLICITOR
U.S. DEPARTMENT OF THE INTERIOR
FEDERAL OFFICE BUILDING
2800 COTTAGE WAY
SACRAMENTO, CA 95825

3. STATEMENT OF REASONS . . Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203 (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary.

SOLICITOR ALSO COPY TO . . . . PACIFIC REGIONAL SOLICITOR
U.S. DEPARTMENT OF THE INTERIOR
FEDERAL OFFICE BUILDING
2800 COTTAGE WAY
SACRAMENTO, CA 95825

4. ADVERSE PARTIES . . . . Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR Sec. 4.413). Service will be made upon the Associate Solicitor, Division of Energy and Resources, Washington, D.C. 20240, instead of the Field or Regional Solicitor when appeals are taken from decisions of the Director (WO–100).

5. PROOF OF SERVICE . . . . Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43 CFR Sec. 4.401(c)(2)).

Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: *A document is not filed until it is actually received in the proper office (see 43 CFR Sec. 4.401(a))*

SUBPART 1821.2--OFFICE HOURS; TIME AND PLACE FOR FILING

Sec. 1821.2-1 *Office hours of State Offices.* (a) State Offices and the Washington Office of the Bureau of Land Management are open to the public for the filing of documents and inspection of records during the hours specified in this paragraph on Monday through Friday of each week, with the exception of those days where the office may be closed because of a national holiday or Presidential or other administrative order. The hours during which the State Offices and the Washington Office are open to the public for the filing of documents and inspection of records are from 10 a.m. to 4 p.m., standard time or daylight saving time, whichever is in effect at the city in which each office is located.

Sec. 1821.2-2(d) Any document required or permitted to be filed under the regulations of this chapter, which is received in the State Office or the Washington Office, either in the mail or by personal delivery when the office is not open to the public shall be deemed to be filed as of the day and hour the office next opens to the public.

(e) Any document required by law, regulation, or decision to be filed within a stated period, the last day of which falls on a day the State Office or the Washington Office is officially closed, shall be deemed to be timely filed if it is received in the appropriate office on the next day the office is open to the public.

* * * * *

*U.S. GPO: 1991-573-016/46018

RECORD OF DECISION

BRIGGS PROJECT
INYO COUNTY, CALIFORNIA

ENVIRONMENTAL IMPACT STATEMENT NO. CA065-NEPA-94-03

STATE CLEARINGHOUSE NO. 92122070

Bureau of Land Management
California Desert District
Ridgecrest Resource Area
Ridgecrest, California

Approved:

Henri R. Bisson-District Manager

2/10/95
Date

I. DECISION

I approve CR Brigg's Proposed Plan of Operations for the Briggs mining project, as modified by mitigation and monitoring provisions. The BLM has utilized the Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) prepared for the Briggs Project in it's decision to approve the Briggs Plan of Operations. The Briggs Project Final EIS/EIR released in June 1995, describe in detail the mining action which has been approved. Based on the environmental analysis contained in the Final EIS/EIR, the BLM has determined that the Briggs Project, with mitigation measures and stipulations incorporated by this Record of Decision (ROD) , will not cause unnecessary or undue degradation of the public lands.

My decision to approve the CR Briggs project has been made in consultation with Inyo County, the co-lead agency, to ensure that the project meets applicable State of California and Inyo County laws and regulations, including the California Surface Mining and Reclamation Act of 1975, as amended (SMARA). The EIR prepared jointly with the EIS fulfils the requirements of the California Environmental Quality Act. A Mine Reclamation Plan as amended was prepared to meet the regulations under SMARA.

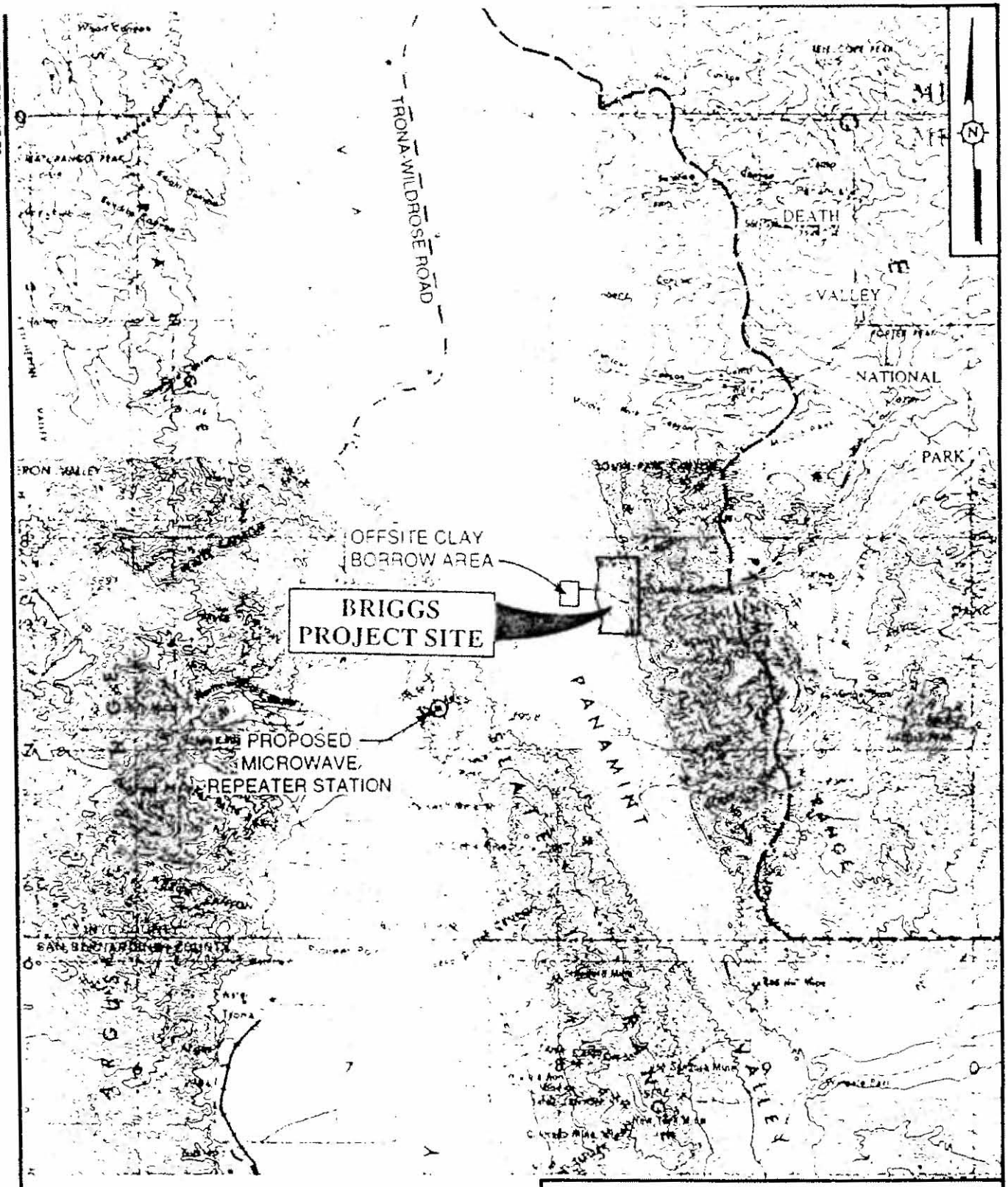
The proposed action, including mitigation and monitoring provisions, is described in the following documents which are incorporated by reference: Briggs Project Draft EIS/EIR (September 1994); Briggs Project Final EIS/EIR (June 1995); Briggs Project Plan of Operations, as amended (August 1992, November 1993 and December 1994); Offsite Mitigation Assistance Plan Memorandum of Understanding; the Bighorn Sheep Impact Monitoring Plan and the Environmental Quality Assurance Plan.

The National Park Service, Death Valley National Park, and the U.S. Army Corps of Engineers were cooperating agencies in the development of the EIS/EIR. The agencies contributed to the analysis of potential impacts of special concern such as groundwater drawdown, visual impacts, big horn sheep monitoring, air quality and wetlands impacts. The boundary of Death Valley National Park is 2.5 miles east of the Briggs mine.

PROJECT DESCRIPTION

The Briggs Project (Figures 1 and 2) will operate as a conventional open pit heap leach gold mine. Ore and associated unmineralized rock will be mined from an open pit. Ore will be processed on a leach pad using cyanide solution as a leaching agent; gold will be recovered using carbon adsorption. The project is designed to mine and process an estimated 21 million tons of ore. At an average ore processing rate of about 4 million tons annually, the project will operate for approximately six years. Twenty-seven million tons of waste rock will also be removed as overburden.

The project will disturb up to 483 acres of desert land within the approximately 2,076-acre site, plus up to 50 additional acres offsite for excavation of clay borrow for pond liner construction.
All facilities will be located on public lands administered by the Bureau of Land Management (BLM). Decommissioning of the site and final reclamation will occur for about one year after completion of operations. With construction and reclamation, the total project life will be approximately eight years.



REFERENCE: USGS 1:250,000 TOPOGRAPHIC MAPS OF DEATH VALLEY, CA. DATED 1954 AND PHOTOREVISED 1970; AND TRONA, CA. DATED 1957 AND PHOTOREVISED 1969.

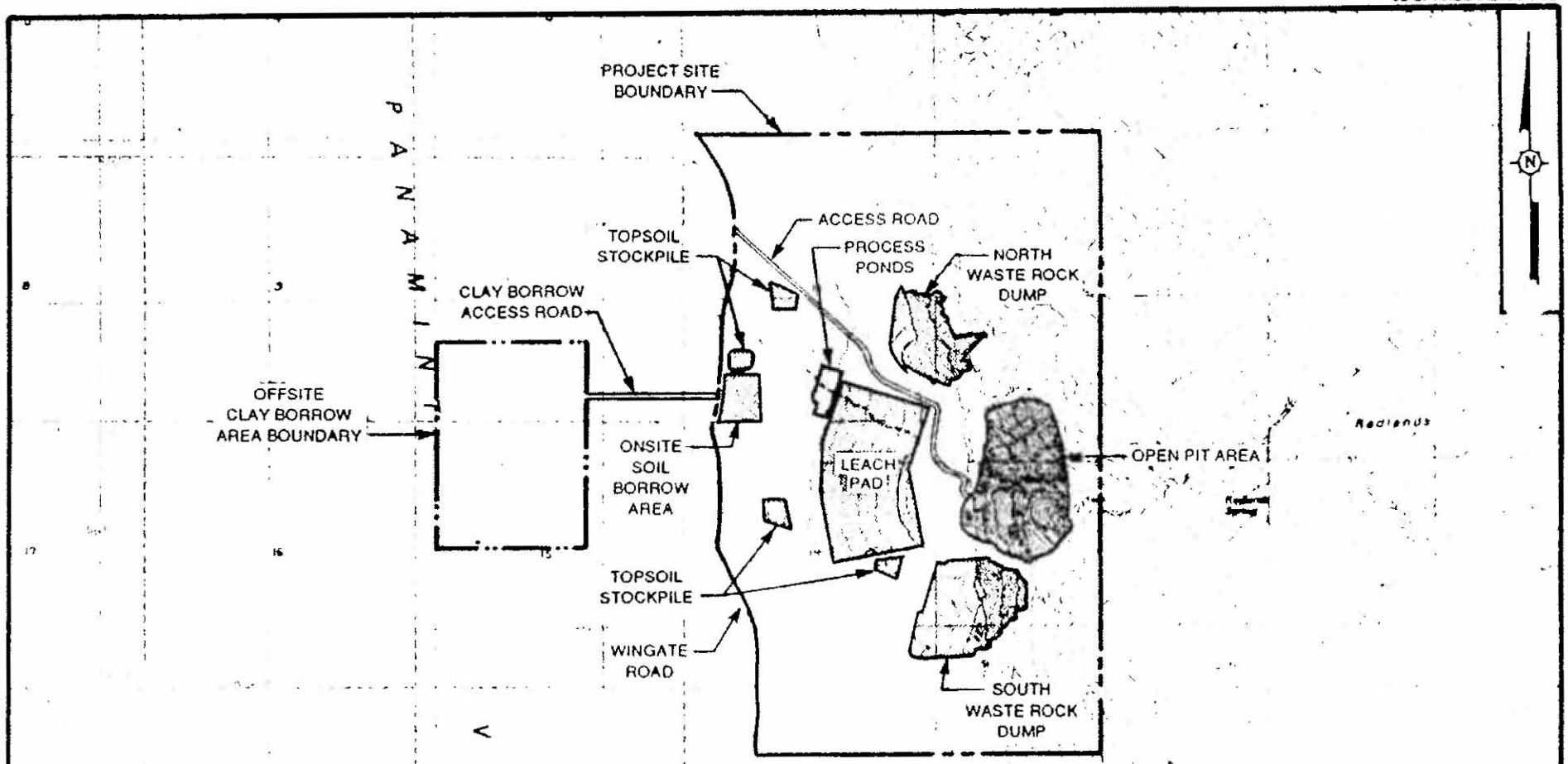
FIGURE 1

VICINITY MAP

BRIGGS PROJECT

ENVIRONMENTAL SOLUTIONS, INC.

92-274 ROD REV. 6/93



REFERENCES:

1. U.S.G.S. 7.5 MINUTE TOPOGRAPHIC MAP OF MANLY FALL, CALIFORNIA. DATED 1984.
2. CANYON, 1994b.

FIGURE 2

PROJECT SITE BOUNDARY AND OFFSITE BORROW LOCATION (MODIFIED PROPOSED ACTION)

BRIGGS PROJECT

ENVIRONMENTAL SOLUTIONS, INC.

The project will employ up to 155 people during construction and approximately 120 during the operating period.

Major onsite components of the project (Figure 3) include a mine pit, two waste rock piles, crushing and ore transport facilities (e.g., haul trucks, conveyors, etc.), a heap leach pad, process water storage ponds, a gold processing plant, a soil borrow area, and growth media stockpiles. Other onsite components include utilities (water, power, and communications), miscellaneous structures (including offices, a warehouse, a laboratory, and a mine shop), and access roads. Power will be provided by onsite generators. Approximately 400 gallons per minute (gpm) of water will be required, primarily for ore processing and dust control. Water will be supplied by onsite wells. To facilitate offsite communications, the project includes installation of a microwave repeater station on the ridge of the Slate Range to the west of the project site (Figure 1). The communication site is on Federal land.

The heap leach pad and process water ponds will be constructed with low permeability liners, consisting of plastic membranes and compacted, low-permeability clay. Clay will be obtained from the unvegetated playa surface west of the site (Figure 2). Borrow from this location will be purchased from BLM pursuant to 43 CFR Part 3600 regulations. Clay borrow excavation will disturb up to 50 acres within the 287-acre offsite clay borrow area shown in Figure 2.

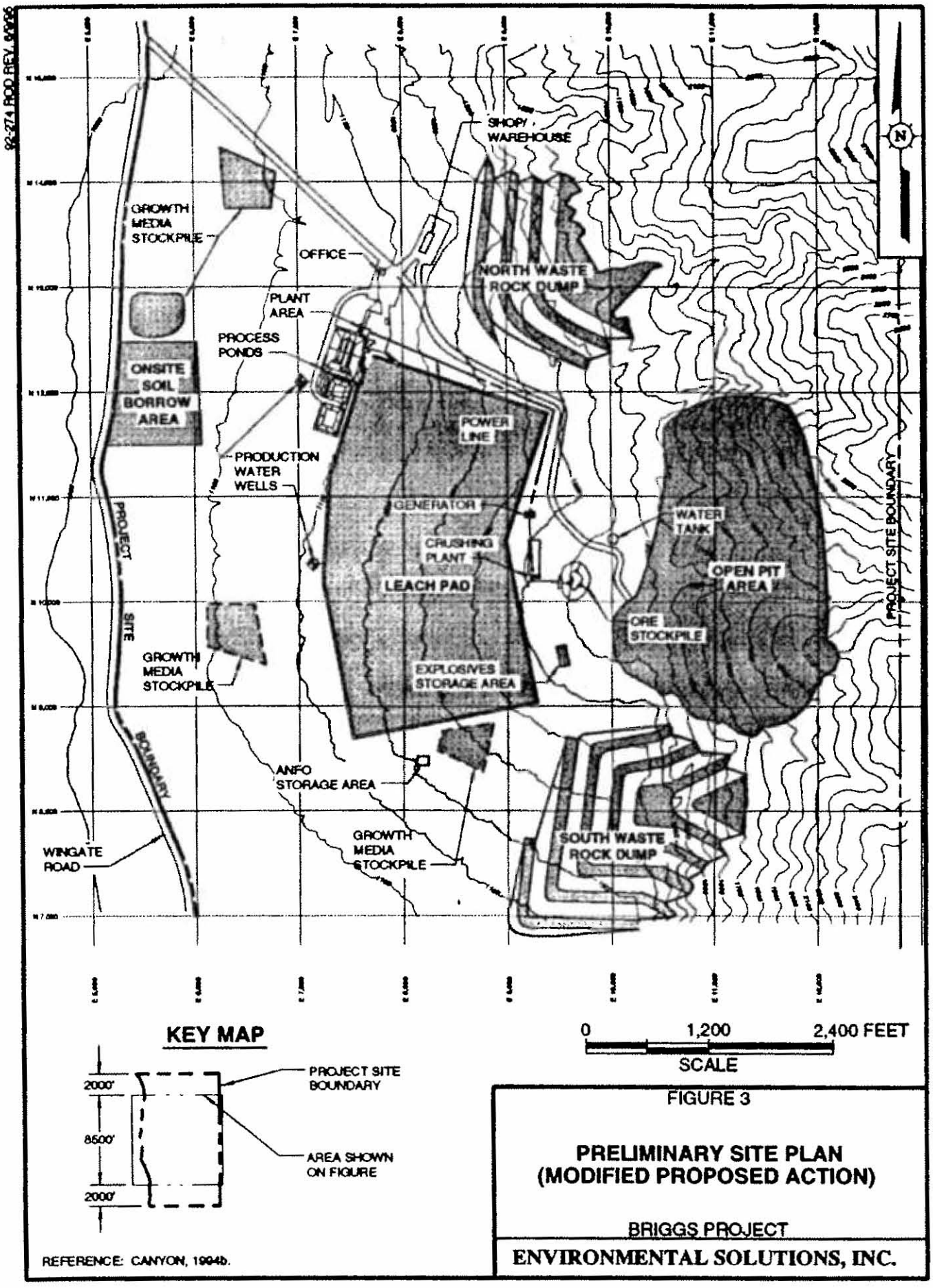
The mine pit will not be backfilled or revegetated. As a mitigation for this impact, the proponent will implement an Offsite Mitigation Assistance Plan and thereby perform reclamation of abandoned mine lands in the Panamint Valley area to offset impacts of the mine pit. The abandoned mine sites will be recontoured and reseeded; junk and debris will be disposed and some materials will be recycled. Additional measures may include the removal of structures and the capping of old wells, etc. The acreage of offsite reclamation will equal or exceed the acreage of the mine pit footprint (112 acres).

Funding for reclamation activities will be guaranteed through posting of financial assurance of approximately $2,924,462.00 which will be jointly held by the BLM, Inyo County and the Regional Water Quality Control Board (RWQCB). Financial assurance will be in place within 45 days of the date of this ROD. Site disturbance and reclamation progress will be monitored throughout the life of the project, and financial assurance requirements will be assessed and updated annually. A separate bond will be held by the RWQCB to cover the contingency of an uncontrolled release of cyanide solution. This separate bond will assure cleanup and restoration of the environment.

II. ALTERNATIVES INCLUDING THE MODIFIED PROPOSED ACTION

A range of alternatives were considered in the EIS/EIR. The following alternatives are analyzed in detail.

> **No Action Alternative** - If this alternative were selected, the project would not be developed, and no environmental impacts would occur. Existing land use management would continue subject to the California Desert Conservation Area Plan. The lands would remain open and available to mining and other land uses.



REFERENCE: CANYON, 1994b.

FIGURE 3

PRELIMINARY SITE PLAN (MODIFIED PROPOSED ACTION)

BRIGGS PROJECT

ENVIRONMENTAL SOLUTIONS, INC.

Modified Proposed Action - The Modified Proposed Action is not a new alternative but is the summation of the Balanced Waste Rock Piles Alternative, plus other environmental mitigations made in response to public comment and further agency consultations since release of the Draft EIS/EIR. The Offsite Mitigation Plan is part of the Modified Proposed Action. Offsite mitigation is not included with the No Action alternative, the Slower or Faster Ore Beneficiation rate alternatives, the Reduced Project Size alternative, or the Partial Backfilling alternative. The Final EIS/EIR describes the Modified Proposed Action.

The Balanced Waste Rock Piles alternative was identified in the Draft EIS/EIR as the NEPA preferred alternative. The Modified Proposed Action described in the Final EIS/EIR incorporate the Balanced Waste Rock Piles alternative site layout, plus other environmental mitigations over and above the original Proposed Action. The Modified Proposed Action, plus additional mitigation measures, is the BLM environmentally preferred alternative of the Final EIS/EIR.

Balanced Waste Rock Piles - This alternative site layout could only be implemented, if Wilderness Study Areas (WSA's) surrounding the project site were returned to multiple use management by the provisions of the Desert Protection Act (DPA). The south waste rock pile would be expanded into the former Manly Peak WSA. The north waste rock pile would be reduced in size. This design would reduce overall haul mileage, save fuel, reduce total dust emissions, and configure the more visible waste rock pile to better simulate natural topography so that visual impacts of the project are reduced. Overall acreage of surface disturbance for this alternative would be about the same as for the original Proposed Action. With passage of the DPA in October 1994, it became possible to implement this alternative site layout. Wilderness Study Areas (WSA's) surrounding the project site were returned to multiple use management by the provisions of the Desert Protection Act (DPA). The south waste rock pile would be expanded into the former Manly Peak WSA. The north waste rock pile would be reduced in size. This design would reduce overall haul mileage, save fuel, reduce total dust emissions, and configure the more visible waste rock pile to better simulate natural topography so that visual impacts of the project are reduced. Overall acreage of surface disturbance for this alternative would be about the same as for the original Proposed Action. With passage of the DPA in October 1994, it became possible to implement this alternative site layout.

"Original" Proposed Action - Under the original Proposed Action, the Briggs Project would mine and process ore at an average rate of about 4 million tons per year for about six years. Up to 505 acres of surface disturbance would occur. All onsite facilities would be located inside an approximately 940-acre "window" that existed in the Manly Peak WSA and Slate range WSA's prior to passage of the Desert Protection Act. This site layout constraint would have required that waste rock piles be placed in a configuration that is not optimal for operations or for reduction of environmental impacts.

Alternative Ore Beneficiation Rates - Altering the project operating rate for a slower or faster throughput would result in similar land disturbance impacts. Total ore and waste rock tonnage would be the same as estimated for the original Proposed Action. The slower

alternative would decrease the beneficiation rate by 50 percent, thereby increasing the operational life of the project to about 10 years. Increasing the ore beneficiation rate by 50 percent would decrease the operational life of the project to about four years.

Reduced Project Size - Under this alternative, the total tonnage of ore and waste rock to be mined would be reduced by 30 percent and the area disturbed would be reduced by about 100 acres. The rate of mining and beneficiation would remain the same as for the original Proposed Action, thereby shortening the project life by about two years.

Partial Backfilling - Under this alternative, the mine pit would be backfilled to the lower side of the pit rim. The backfill surface would be sloped to drain at approximately the same grade as the surface of the adjacent alluvial fan. With this configuration, about 50 acres of the mine pit footprint would be backfilled. Waste rock placement from the beginning of the mine life would be planned to minimize backfilling efforts. A modified waste rock pile configuration would be used that would result in the north waste rock pile being constructed about 300 feet higher than for the modified Proposed Action. Based on the maximum mining configuration that could occur, about 25 percent of the total ore residue and waste rock pile volume would be backfilled during final site reclamation. The two waste rock piles would be reduced in final size. Ore residue from the heap leach pile would not be used for backfill, so the size of this pile after reclamation would not change. Backfilling under this alternative would take about two years at an earthmoving rate comparable to the mining rate during the operational period of the mine. There would be about 13 additional acres of onsite disturbance compared to other alternatives. The Offsite Mitigation Plan is not part of the Partial Backfilling Alternative.

III. MANAGEMENT CONSIDERATIONS

My decision to approve the proposed Briggs mining project is based on the determination that this project will not result in undue or unnecessary degradation to public land. The environmental review for the Briggs Project, culminating in this Record of Decision, has benefited from intensive analysis from the two lead agencies, the BLM and County of Inyo, Planning Department. The U.S. Army Corps of Engineers and the National Park Service, Death Valley National Park, were cooperating agencies. They provided input and, in the case of the Corps of Engineers, will issue a Clean Water Act, section 404 permit. Numerous other Federal and State of California agencies, interested groups and individuals commented on the Draft EIS and the SMARA Mining Reclamation Plan. The Lahontan Regional Water Quality Control Board and the Great Basin Unified Air Pollution Control District will issue separate permits for the protection of water and air quality respectively. Additional mitigation measures were developed to ensure that all reasonable means to avoid or reduce environmental impact have been incorporated into the project. The project is conforms with BLM's California Desert Conservation Area Plan and the Inyo County General Plan. The project is also consistent with land use designations recently established by the Desert Protection Act. A summary of major issues, considered by management in this decision, is presented below.

RECLAMATION

The BLM developed the reclamation plan in conjunction with Inyo County to fulfil the intent of BLM 43 CFR 3809 surface mining regulations and the California Surface Mining and Reclamation Act. Detailed onsite reclamation measures are described in the Final EIS/EIR. Key reclamation activities are summarized below and in the attached stipulations to this Record of Decision.

During construction of project facilities, surface soils in areas to be disturbed will be salvaged and stockpiled for use as growth media for final site reclamation. Reclamation will occur concurrent with mining in areas that will not be subject to additional disturbance. Final reclamation measures will include removal of buildings, equipment and debris and revegetation of all onsite surface disturbance except the mine pit. Revegetation will proceed with regrading of disturbed areas, spreading of growth media over graded surfaces, seedbed preparation and seeding. The seed mix will include only species that are indigenous to the area. Seedbed preparation and seeding measures will be supplemented by planting of creosote bush seedlings, and by planting of cactus salvaged from disturbed areas. During final reclamation, large rocks will be placed randomly over disturbed surfaces having slopes of less than 3H:1V. A limited number of small piles of larger rocks will be deposited over the site to enhance the habitat potential for small mammals. A breakdown of estimated surface disturbance by project component is provided below.

Site Disturbance and Reclamation by Project Component	**Acres Disturbed**	**Reclaimed Acres**
Mine Pit	112	112*
North Waste Rock Pile	53	53
South Waste Rock Pile	78	78
Heap Leach Pad	138	138
Onsite Soil Borrow Area	20	20
Stormwater Diversions	13	13
Growth Media Stockpiles	19	19
Ancillary/Facilities, Process Ponds, Haul Roads	50	50
Onsite Clay Borrow Area	50	50
TOTALS	533	533

* Offsite reclamation of abandoned mine lands will offset nonrevegetation of the Mine Pit.

A revegetation research plan will be implemented following project approval. Revegetation test plots will study the productivity of various husbandry techniques, fertilizer rates, seeding mixtures,etc. A technical advisory committee, with experience in desert revegetation and approved by the BLM and

Inyo County, will oversee the research effort. Standards for postmining revegetation success will be based on the achievement of specific values for ground cover, species richness and woody plant density.

In conjunction with the Modified Proposed Action, the proponent will perform offsite mitigation to offset impacts of not backfilling the mine pit. With offsite mitigation, there will be no net long-term reduction in acreage of vegetation and wildlife habitat. Implementation of reclamation measures, and post-reclamation monitoring and maintenance, will be ensured by the posting of financial assurance with the BLM, County of Inyo and the Lahontan Regional Water Quality Control Board.

BACKFILLING

In assessing impacts of the Briggs Project alternatives, particular attention was given to the issue of backfilling the 112 acre mine pit. Complete backfilling of the mine pit is not technically feasible, because part of the pit occurs on a steep mountain flank. It is feasible to backfill the western/lower part of the open pit, which forms a closed depression (Partial Backfilling). This action would restore 50 acres of the 112 acre pit to creosote bush scrub and wildlife habitat. The two waste rock piles would be used as backfill material. The waste piles would be substantially reduced in size. The potential safety hazard of the closed depression would be eliminated.

Two additional years of earthmoving would be needed to partially backfill the mine pit. The short-term impacts of this effort would be similar to the impacts during mining operations. Dust and combustion air emissions, water usage for dust control, traffic and noise impacts and disturbance to wildlife would all continue. The consumption of nonrenewable resources and the expenditure of money would be considerable.

Consideration was given to California BLM policy, and to the California Desert Conservation Area Plan which encourage mineral development on BLM managed lands. The backfilling of part of the mine pit would bury subeconomic gold mineralization which could potentially be mined in the future.

The BLM has decided that the time, energy and resources necessary to partially backfill the mine pit can best be expended in reclaiming abandoned mine or other lands in the vicinity of the Panamint Valley. This Offsite Mitigation Plan will reclaim 112 acres of offsite lands equal to the area of the total mine pit, as compared to reclamation of 50 acres under the Partial Backfilling Alternative.

GROUNDWATER DRAWDOWN AND WETLANDS IMPACT

Groundwater usage and aquifer drawdown will be monitored over the life of the mining project. Groundwater drawdown may affect the desert sink scrub vegetation at the playa margin west of the mine. Part of this vegetative community is classified as jurisdictional wetlands. A three-tier mitigation program is in place to monitor and mitigate possible vegetative stress to the wetlands plant community due to the loss (drawdown) of shallow groundwater.

Actual aquifer drawdown will be compared to the projected drawdown model discussed in the Draft EIS/EIR. A dramatic increase from the expected drawdown may lead to a reanalysis of groundwater impacts. Aquifer recharge after mining will also be monitored.

WILDLIFE

No state or federally listed Threatened or Endangered species are known to occur on the project site or in the immediate vicinity. Species of special concern that occur onsite or in the vicinity include Nelson's bighorn sheep, the Townsend's big-eared bat (Federal Category II species) and the burrowing owl. Measures for reducing impacts to wildlife have been incorporated as mitigation in the EIS/EIR and as stipulations of this ROD. The project will not use water from Redlands Spring in order to preserve this natural water source for wildlife. Fencing around the process water ponds, plant and leach pad, buried drip emitters on the leach pad, closed piping solution transport systems, and fully covered process water ponds will isolate reagents from wildlife. Other wildlife mitigation measures are advisory signs to encourage safe travel on the project access road, lighting controls and revegetation of surface disturbance. The Offsite Mitigation Plan will offset long-term impacts of the mine pit to wildlife habitat on the project site. Specific mitigation or monitoring for special interest species includes: (1) a program to encourage a maternity colony of Townsend's big-eared bats, that did inhabit mine tunnels on the site, to relocate to an alternative roost; (2) measures to encourage a breeding pair of burrowing owls to relocate their seasonal nest away from its current location near the project access road; and (3) a cooperative program to assist BLM in monitoring the presence and movement of bighorn sheep in the vicinity.

BIG HORN SHEEP MONITORING PROGRAM

The big horn sheep monitoring program is a cooperative effort between the BLM, CR Briggs Corporation, the project proponent, the California Department of Fish and Game (CDFG) and the National Park Service, Death Valley National Park. CR Briggs is providing the major share of funding. The three regulatory agencies are providing some equipment, manpower and field time. A graduate student, overseen by CDFG, will gather, compile, and write up field results. The program will run for three or more years, until supportable conclusions can be made on the possible impact of the project on big horn sheep near the mine. The program will also serve as an important benchmark study of big horn sheep in the Southern Panamint Range. Major facets of the program are radio collaring, radio tracking by helicopter, analysis of fecal pellets, distribution plots, lambing behavior and any avoidance behavior due to mining activities.

AIR QUALITY

The Great Basin Unified Air Pollution Control District (APCD) is responsible for enforcing Federal and State of California air quality standards for fixed source, combustion and dust emissions at the Briggs mine site. The APCD will issue permits related to the control of air emissions during construction and operations. By law the proponent cannot exceed any Federal or California air quality standard outside the project permit boundary. Emissions from the site will be within applicable standards, including those for PM_{10} (fine dust) with mitigation measures applied. Continuous air monitoring stations will be placed near the north and south permit boundaries of the Project area. By regulation, a fence must be constructed on the permit boundary to prevent public access to areas which may exceed ambient air quality standards.

An additional mitigation measure will require the proponent to treat the entire access route from the Trona-Wildrose road to the site with an emulsion compound or other chemical in order to reduce road

dust emissions by 90%.

VISUAL RESOURCES

Visual impacts were a concern because of the primitive and largely natural condition of the Panamint Valley. To minimize visual impacts, part of the mine pit highwall will be stained to simulate natural rock hues, and the waste rock piles and leach pad will be regraded to simulate natural landforms to blend these features into the surrounding landscape. Landscaping and pit highwall staining, followed by revegetation of the waste piles and leach pad will reduce visual impacts. These measures are part of the Modified Proposed Action or have been included as additional mitigation in the EIS/EIR and as stipulations of this ROD. The nearest paved road is more than seven miles from the site. Impacts to views from adjacent wilderness and National Park areas will not be significant because of intervening distance and/or topography. The Partial Backfilling alternative was carefully evaluated and determined not to significantly reduce visual impacts of the project when compared to the Modified Proposed Action.

LAND USE

The project site and adjacent lands are managed for multiple use, including mineral exploration and mining, subject to 43 CFR 3809 regulations. County land use plans designate the site vicinity as Natural Resource Lands. The Briggs Project is consistent with land use plans, policies, laws and regulations. The Desert Protection Act of 1994 returned land adjacent to the Briggs project area to multiple-use management. This redesignation was expressly done to foster mineral exploration and mining in the southern Panamint Range.

ACCESS

Employee and service traffic will use Ballarat Road to access the mine site and will pass through a corner of private land comprising the Ghost Town of Ballarat. Measures to reduce impacts to the structures present in the town of Ballarat include regular maintenance of access roads to the project site, surface treatment of access roads to reduce dust emissions by 90% over untreated roads and use of the south borrow area near the mine rather than the borrow area close to Ballarat.

SOCIOECONOMICS

The operations phase of the project will result in about 120 direct jobs and an estimated 150 additional indirect jobs. The construction phase of the project will result in about 155 direct jobs and additional indirect jobs. To the extent possible, the proponent will hire personnel from the available local labor force. The increased demand for housing and services will not strain local communities or governments, because recent population declines have resulted in a surplus of housing and a reduction in student numbers.

OTHER RESOURCES

Impacts to cultural resources, transportation, noise, and environmental health and safety were also

evaluated. Mitigation measures will reduce these impacts to a level that is less than significant.

CUMULATIVE IMPACTS

The Panamint Valley around the project area is remote, with little development. There are relatively few past or present activities that could result in significant cumulative impacts. With the exception of ongoing mineral exploration and potential future mining in the area, existing and reasonably foreseeable development activities are generally isolated from each other, and from the proposed project. Given the size of the proposed disturbance and the mitigations measures to be applied, the potential for cumulative impact to the environment is minimal.

IV. PUBLIC INVOLVEMENT

As part of the initial phase of the environmental analysis for this EIS/EIR, a Notice of Intent was published in Federal Register, and two public scoping meetings were conducted in January 1993 to identify public issues and concerns. Over 260 copies of the Draft EIS/EIR were distributed in September 1994 to interested parties identified by the BLM, County, and State Clearinghouse. The document was available for a 67-day public review period until November 21, 1994. Written comments were received and two public meetings were conducted during this period. Over 200 copies of the Final EIS/EIR were distributed in May 1995 to interested agencies, organizations, and individuals. A 30 day Notification period for the Final EIS/EIR ran until July 3, 1995. Notices of the availability of the Draft and Final EIS/EIR, the occurrence of public meetings, and procedures for public input, were published in local and regional media. The BLM and Inyo County have met or exceeded the public review requirements of NEPA and CEQA.

V. MITIGATION AND MONITORING

Mitigation measures for the Briggs Project are described in the Final EIS/EIR in Volume I, Chapter 4.0, and Volume II, Chapter 4.0. These mitigations as well as monitoring and other regulatory requirements are reproduced in this ROD as stipulations. All mitigating measures, monitoring requirements and operating conditions, which the Operator must adhere to, shall be compiled in an Environmental Quality Assurance Plan. This Plan will assist the BLM and other permitting agencies in monitoring the compliance of the mine Operator throughout the life of the Briggs project.

VI. APPEALS

Within 30 days of receipt of this decision, the adversely affected party has the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at Title 43 Code of Federal Regulations 4.400. The following procedures as outlined in the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals, must be followed. Within 30 days after an appeal, a Statement of Reasons must be provided to the Board of Land Appeals listed in Item 3 on the form. In addition, please provide our office with a copy of the Statement of Reasons. The appellant has the burden of showing that the decision appealed from is in error.

ATTACHMENT

BRIGGS PROJECT GENERAL STIPULATIONS

CR Briggs or any new operator that succeeds to CR Briggs' interest by sale, assignment, transfer, conveyance, exchange or other means (hereinafter referred to as "the Operator") must comply with the following stipulations:

1. This approval is conditioned upon the Operator conducting the Briggs Project consistent with the Plan of Operations and the Modified Proposed Action contained in the Briggs Project Final EIS/EIR, as modified by mitigation measures developed through the EIS/EIR process and listed as additional BLM and Inyo County mitigations in this Record of Decision.

2. Any significant change in the Plan of Operations by the Operator will require review and approval in the same manner as the approved Plan of Operations. The BLM may review and request modification of any operation approved in the Plan of Operations that is causing unnecessary or undue degradation in accordance with the regulations at 43 CFR 3809.1-7.

3. This approval is conditioned upon the Operator complying with all applicable County, State and Federal laws and regulations.

4. The Operator shall comply with all of the conditions set forth in the Briggs Project Mine Reclamation Plan pursuant to the Surface Mining and Reclamation Act.

5. The Operator shall comply with the provisions of the California BLM Cyanide Management Plan.

6. The Operator shall post a letter of credit, cash or surety bond jointly with Inyo County, BLM and the RWQCB to ensure compliance with all of the conditions of the Plan of Operations and Mining Reclamation Plan. Financial assurance of approximately $2,924,462.00 will be jointly held by the BLM, Inyo County and the Regional Water Quality Control Board (RWQCB). Within 30 days following the release of this decision, the BLM, County and the Operator will begin developing an agreement to design and implement the administrative bonding procedures.

7. Financial assurance can be partially released or reduced as facets of reclamation are completed. The BLM, Inyo County and the RWQCB must concur on standards for completion and the dollar value of the completed reclamation.

8. Revegetation standards, for release of financial assurance, will be met by attainment of the following three parameters: The average weighted ground cover equals or exceeds 20% of cover in the reference area, species richness is one-half or more of the number of species which had baseline cover values of 10% or greater and the woody plant density is 75 or more live stems per acre.

9. All cyanide solution containment facilities shall be inspected by the operator at least once per week. BLM and the California Department of Fish and Game shall be notified within 24 hours of the

discovery of any wildlife mortality in the project area. A monthly report on animal mortalities must be submitted to the BLM Ridgecrest Resource Area Office no later than the 10th of each following month. This report shall include the following information: The number and kind of each mortality and probable cause of death. "Kind" will be reported under one of the following categories: raptors, songbirds, upland game birds, waterfowl, shore birds, mammals, and other. Location where the dead animal was found. Other information as requested by the BLM. Monthly animal mortality reports shall be summarized in an annual report to BLM.

10. Design and construction of electric power distribution poles shall incorporate provisions for raptor safety.

11. Hydrogen cyanide shall be routinely monitored at the processing facilities as a requirement of the employee health and safety plan implemented according to Mine Safety and Health Administration (MSHA) regulations. In addition, the Operator shall periodically perform airborne HCN surveys to verify that potential public exposure to cyanide is inconsequential.

12. A Spill Prevention, Control, and Countermeasures Plan and Emergency Response Plan shall be developed to establish procedures for spill prevention and cleanup. These Plans shall be submitted to the BLM, Inyo County and the RWQCB within regulatory timeframes. Any spill of a hazardous substance shall be reported to the BLM, RWQCB and other applicable agencies.

13. Training programs shall be implemented to familiarize personnel with their specific jobs, handling of hazardous substances such as cyanide, and first aid procedures.

14. Explosives shall be stored in a secured powder magazine constructed and maintained in accordance with federal and local requirements. Only personnel holding valid blasting certificates shall be allowed to initiate blasting.

15. Nonhazardous waste materials generated on the site shall be disposed at facilities possessing appropriate permits, in accordance with state laws. Disposal of waste oils shall be in a manner consistent with state and local requirements.

16. All mitigating measures, monitoring requirements and operating conditions, which the Operator must adhere to, shall be compiled into an Environmental Quality Assurance Plan before the start of operations. The format shall be established in consultation with the Authorized Officer. As additional permits are acquired, the operator shall incorporate the new permit conditions and monitoring requirements into the Plan.

BRIGGS PROJECT-MITIGATION MEASURES INCORPORATED BY PROJECT DESIGN

TOPOGRAPHY

TOP-1. Site roads will follow existing contours, where possible, to minimize topographic changes due to grading.

TOP-2. For areas where cut and fill construction is required, excavated material will be reworked into cut areas during reclamation to blend the surface with surrounding natural contours.

TOP-3. The process water ponds area will be graded during reclamation to drain freely and blend with surrounding topography.

TOP-4.The borrow area will be excavated and/or reclaimed to provide low slope angles (e.g., 5H:1V or less). If the onsite borrow area is used, the area would be graded to drain freely when borrow activities are completed.

TOP-5. Heap leach pad slopes will be regraded during reclamation to an overall angle of about 3H:1V.

TOP-6. During final site operations and/or reclamation, waste rock pile slopes will be graded to break up unnatural straight-line surface contours.

GEOLOGY

GEO-1.The leach pad and other processing facilities will be located a minimum of 100 feet from known fault traces.

GEO-2. Heap leach pad slopes will be constructed at an overall angle of about 2.5H:1V or less, with benches for stability.

GEO-3.Waste rock piles will be constructed at overall slope angles of 2.5H:1V, or less, to provide stability. Benches will be included at regular intervals to catch minor raveling during operations. During final site reclamation, grading will blend benches and slopes.

GEO-4.Mine pit slopes will be evaluated throughout operations, to assure that excavation occurs at a slope angle that is safe, considering actual rock strength and structural conditions encountered. Benches will be provided to catch loose rocks.

GEO-5.Earthquake contingency arrangements will remain in place for the operating life of the Briggs Project that include provisions for emergency generators and pumps and a cyanide-destructing compound to be available on short-term notice. Details of the contingency plan will be submitted for BLM and County approval prior to the introduction of cyanide to the processing circuit. The contingency plan would be implemented in the event that an earthquake would compromise the containment integrity of the leach pad or solution ponds.

GEO-6. If fossils are discovered during operations, work in the area would cease, and BLM will be notified. The BLM will assess the character of the find and any need for mitigation/protection. The period of work stoppage will not exceed 10 working days.

SOILS

SOIL-1.Soils suitable for use as growth media will be salvaged from areas to be disturbed, in accordance with the approved reclamation plan. Stockpiled soils will be used to resoil disturbed areas during reclamation.

SOIL-2.Growth media stockpiles will be stabilized by planting with a seed mixture designed for rapid establishment, and/or other measures such as mulching or chemical stabilization.

SOIL-3.Soils in areas subject to minimal disturbance, such as soil stockpiles and water well sites, will be left in place and stabilized in accordance with the reclamation plan.

SOIL-4.Soil stockpiles will be clearly marked by signs on all four sides to prevent inadvertent disturbance. Canyon will keep records of the age of growth media stockpiled, and will stockpile and utilize growth media in a manner that minimizes the amount stored for over two years. Measures will be taken to restore biological potency of soils stored for an extended period of time. Example measures include introduction of natural inoculating materials (e.g., roots), mixing of older and newer soils, and reinoculation with commercial amendments.

SOIL-5. Water bars, riprap and other stabilization measures will be incorporated into the site drainage system, where required to control erosion. Site drainages will be inspected periodically to assure that excessive erosion is not occurring. If excessive erosion is detected after a rainstorm, control measures will be taken and reported to BLM and the County.

SOIL-6.Areas disturbed during construction, that will not be subject to additional disturbance for three years or more, will be seeded in accordance with the reclamation plan prior to the first growing season, to reduce erosion potential.

SOIL-7. Palliatives will be used as part of the dust control program to reduce the amount of water (which has a high salt content) applied to site roads.

SOIL-8. As part of onsite road reclamation, Canyon will: (1) perform soils analyses on representative portions on site road surfaces where revegetation is planned; and (2) remove road base material where accumulation of salts by road watering may hinder revegetation. Material removed from road surfaces would be deposited on the heap leach pad, prior to application of growth media to the heap.

WATER RESOURCES

WAT-1. The drip irrigation method will be employed to apply solution to most of the heap leach surface. This will reduce evaporation, compared to the more conventional spray application technique.

WAT-2. Process water ponds will be fitted with floating covers (except the detoxification pond, which would be netted). This will reduce evaporation in comparison to other, more conventional methods of wildlife control at ponds, such as netting or hazing.

WAT-3. Palliatives will be used as a part of the dust control program, which would reduce water consumption.

WAT-4.Measures will be taken to reduce erosion potential during project construction, operation and reclamation. In addition to practices such as use of stabilized drainage ways, riprap, water bars, and other standard engineering measures that will be required by the County and BLM, the following would occur:

a. Site roads and drainage facilities will be inspected after rainfall events resulting in surface flow. Maintenance would occur promptly, as needed.

b. Drainage from the tops of waste rock piles will be directed away from the pile slopes.

c. Salvaged soil will be stockpiled away from areas of concentrated drainage and will be reseeded to stabilize the surface.

d. Reclamation of disturbed surfaces would occur as soon as practical.

WAT-5.Exposed portions of processing solution and reagent storage containment facilities will be routinely inspected for deterioration.

WAT-6.Areas where toxic processing reagents are stored in bulk or used will have a concrete pad or will be lined, with drainage control to contain potential spills.

WAT-7.A cyanide destructing compound (e.g., hydrogen peroxide or calcium hypochlorite) will be maintained onsite for use in the event that an environmentally threatening spill occurs. For minor spills that do not pose an immediate threat, affected soil will be excavated and placed on the leach pad in lieu of chemical treatment.

WAT-8.Bulk fuel storage tanks will be located over concrete slabs or low permeability liners. Truck-transfer areas would be graded to contain potential spills.

WAT-9. Handling, storage and disposal of hazardous waste will be in accordance with applicable regulations of the California Environmental Protection Agency and the U.S. Environmental Protection Agency.

WAT-10. Water withdrawal from the aquifer will be monitored and recorded to assure that projected water use rates are not exceeded.

WAT-11. An approximately 1-foot high clay berm will be constructed around the playa borrow excavation following each phase of borrow activity to prevent the excavation from draining the adjacent natural playa surface.

VEGETATION

VEG-1. Disturbance will be minimized to that necessary for safe and efficient operation. Limits of construction areas willl be clearly marked (e.g., flagged prior to earthwork activities), and vehicles and equipment will be confined to these areas.

VEG-2.Suitable growth media will be salvaged and stockpiled for use in reclamation, in accordance with the approved reclamation plan.

VEG-3.A revegetation research plan will be implemented following project approval. A draft plan, including proposed initial test plot locations, schedule, revegetation and husbandry techniques, fertilizer

use, and planned references and consultations, will be submitted to the County and BLM within six months of project construction startup. Approval of a final revegetation plan will happen within one year of startup. A technical advisory committee will be formed, consisting of at least three vegetation specialists with experience in desert revegetation, to provide input to the revegetation test plot program. Test plots will be monitored and statistically evaluated for density and cover percentage at a frequency acceptable to BLM and the County and, at a minimum, annually at the end of each growing season. Results of these analyses will be reported to the County and BLM in an annual report.

VEG-4. Revegetation efforts will be initiated in areas that would not be subject to additional disturbance. Growth media application, seedbed preparation, assessment of soil amendment needs, seeding techniques, mulching and revegetation success monitoring will occur as addressed in the approved reclamation plan.

VEG-5. The seed mix will emphasize shrub species native to the site area, designed to reestablish a plant community similar to that which existed prior to disturbance.

VEG-6. Fencing around the heap leach pad will remain in place, at the discretion of the County and BLM, until vegetation is reestablished, or as otherwise specified in the approved reclamation plan.

VEG-7. Monitoring for the potential establishment of noxious weeds will occur as a part of revegetation success monitoring. A program to control noxious weeds in a manner acceptable to BLM will be implemented.

VEG-8. A monitoring program will be implemented to determine if the jurisdictional wetlands exhibit stress due to a diminished water supply. Because most of the jurisdictional wetlands identified by the COE do not have vegetation that is distinguishable from the surrounding desert sink plant community, the locations that will be monitored, and mitigated if necessary, will be the two small locales identified in Canyon's Briggs Project Wetlands Monitoring Plan (JBR, 1995), where a minor vegetation difference occurs. Wetland monitoring and mitigation will occur according to the plan described in Section 4.4.2, Volume I of this Final EIS/EIR.

VEG-9. All onsite disturbances except the mine pit will be revegetated.

VEG-10. Offsite mitigation will be done to offset the disturbance at the mine pit footprint, which would not be revegetated. Offsite mitigation will occur in accordance with the plan defined in Section 2.2.4 of the Draft EIS/EIR and Section 3.3 in Volume I of this Final EIS/EIR.

VEG-11. Canyon will salvage cactus plants (Ferocactus sp.) that are dislodged from rocks in the mine pit area in a condition suitable for transplanting, provided that salvage can occur with safe access and working conditions. Salvaged cactus will be transplanted on south-facing waste rock pile slopes. Salvaged cactus may be transplanted in a temporary location until a suitable final location is ready for final reclamation.

VEG-12. Revegetation efforts will include creosote bush seedling planting to supplement the direct seeding techniques. Ten creosote bush seedlings will be planted per resoiled acre. The creosote bush

seedlings to be planted onsite will be grown specifically for this purpose from seeds collected from the Panamint Valley. To aid in reestablishing viable soil flora populations in the growth media spread over disturbed surfaces, the growth media used to grow creosote bush seedlings will be inoculated with soil material collected onsite. Commercially available seedling inoculant may also be used to further aid in the establishment of viable rhizobial soil flora populations. The use of this technique would be predicated on the availability of an inoculant applicable to site edaphic conditions.

VEG-13. During final reclamation, large rocks will be placed randomly over disturbed surfaces having slopes of less than 3H:1V to provide diversity to encourage reestablishment of biological activity. Rocks may also be randomly dispersed over slopes if it is determined that this practice will not adversely affect any previous revegetation activities. Two types of rock distributions will be completed. Rocks will be distributed singly over the planted areas prior to mulching to benefit subsequent planting of seedlings. Seedling planting will take place on the north or east aspects of these dispersed rocks to enhance seedling survival (through shading) and maximize biological productivity. Small piles of larger rocks will be deposited over the site to enhance the habitat potential for small mammals. Seedling planting will not be completed in association with these piles, due to the potential for a loss of planted seedlings as a direct result of rodent damage.

WILDLIFE

WIL-1. Grading will be minimized to the extent consistent with safe and efficient operations to limit the total area of surface disturbance.

WIL-2. Site reclamation will include efforts to reestablish habitat similar to that naturally occurring at the site, including utilization of a seed mix emphasizing native shrubs.

WIL-3. During mining operations, areas that will not be subject to additional disturbance will be revegetated, prior to final site reclamation.

WIL-4. To reduce noise, mobile and stationary vehicles, equipment and machinery will be equipped with mufflers.

WIL-5. The following measures will be taken to prevent the exposure of wildlife to cyanide solutions:

a. Floating covers will be installed over the make-up water, pregnant, barren and emergency ponds. The detoxification pond, which would normally be dry, will be netted so that it would be ready for use.

b. An electrified fence will surround the heap leach pad, and a 6-foot-high chain link fence will surround the process pond area to discourage entry of large mammals. The fence will be designed to minimize the potential for injury to wildlife.

c. Routine distribution of solution on the top of the heap leach pad will be applied via a drip irrigation system buried at shallow depth to prevent surface ponding which could attract birds and small animals. Sprinklers used on the slopes of the heap leach pad, where there is no

potential for ponding, will be designed to produce large drops and a low trajectory to prevent air dispersion.

d. Solution will be transported to the ponds in closed piping to prevent open solution from attracting wildlife. Drain areas with exposed solution would be netted.

WIL-6. Containers of reagents will be stored within controlled storage areas. The containers will be kept closed, stored in enclosed areas, or otherwise managed to prevent access by wildlife.

WIL-7. Disturbance to Redlands Spring, which serves as habitat for bighorn sheep, and other wildlife, will be avoided. No water will be extracted from the Redlands Spring for project operations.

WIL-8. Outdoor lighting for the mine pit and other areas of nighttime activities will be shielded to reduce fugitive light. The shielded lights will limit direct lighting to the area of activity, thereby reducing the potential attraction to animals.

WIL-9. A wildlife education program for employees will be implemented to acquaint personnel with the procedures to be followed should wildlife be encountered. Employees will not be allowed to bring dogs or other domestic animals to the site. Except for security personnel, employees will not be allowed to bring firearms to the site.

WIL-10. Project waste will be properly managed at the site to control garbage that could attract wildlife.

WIL-11. A program to encourage Townsend's big-eared bats to seek alternate maternity roost sites will be implemented. The following procedure are proposed to complete this effort:

a. Adits at the site will be closed (gated or excavated), after inspection by a qualified bat biologist indicates that no bats are inside. This will force the bats to seek alternate roost sites.

b. Additional surveys will be conducted to locate alternate roosts of the banded bat colony the following spring.

c. Based on land status, access, etc., security gates or other measures will be provided at the alternate roost sites, as required to protect the colony from vandals.

d. Monitoring of the bat population and fluctuations over time will be conducted to determine the effectiveness of the mitigation measures.

WIL-12. Overland travel (without grading) will be used to gain access to the microwave station location from the existing road. The access corridor will be flagged to minimize the disturbed area.

WIL-13. The microwave station will not utilize external lighting.

WIL-14. Advisory signs will be posted on Ballarat and Wingate roads to encourage safe travel, as

directed by the County.

WIL-15. See WAT-11.

WIL-16. Borrow activities will occur when the natural playa surface in the vicinity of the borrow location is dry.

WIL-17. Offsite mitigation will be done to offset the habitat disturbance of the mine pit footprint, which will not be revegetated. Offsite mitigation will occur in accordance with the plan defined in Section 2.2.4 of the Draft EIS/EIR and Section 3.3 in Volume I of this Final EIS/EIR.

AIR QUALITY

AIR-1. Onsite vehicles and equipment will be maintained on a routine basis, as recommended by manufacturer manuals, to reduce exhaust emissions.

AIR-2. Dust control measures will be routinely applied to access and mine roads.

AIR-3. HCN emissions will be minimized by burying solution distribution lines on the top of the heap leach pad, providing impervious covers on process water ponds that may routinely contain cyanide solution, and controlling the pH of cyanide solutions.

LAND USE

LAND-1. Measures to mitigate various environmental impacts, outlined under each respective environmental category (e.g., air quality, noise, visual, and traffic) will be implemented to reduce potential land use conflicts.

LAND-2. The Operator will perform offsite mitigation to enhance the multiple use value of public lands and offset long-term land use impacts of the mine site.

VISUAL RESOURCES

VIS-1. Surface disturbance will be minimized to that required for safe and efficient operation. Disturbed areas not planned for future use will be promptly reclaimed.

VIS-2. Buildings and structures will be painted with nonreflective earthtone colors to blend with the predominant background.

VIS-3. Dust control measures will be employed to reduce the potential visual impact of fugitive dust.

VIS-4. Outdoor lighting for the mine pit and other areas of nighttime activities will be shielded and directed downward to reduce fugitive light. Light poles will be no higher than necessary for safe and efficient lighting. Low-pressure sodium bulbs will be used for outdoor lighting where consistent with safe operation, to reduce the potential for night sky impact. Canyon will submit a lighting plan for night operations to BLM and the County to document compliance with these measures.

VIS-5. All buildings, equipment, supplies, piping and debris will be removed from the site upon completion, in conformance with the reclamation plan. Foundations will be broken and removed from the site or buried in accordance with procedures acceptable to BLM and the County. Underground utilities will be capped below grade.

VIS-6. Disturbed areas will be regraded to blend with the surrounding terrain and revegetated, in conformance with the reclamation plan.

VIS-7. Leach pad slopes will be graded during reclamation to facilitate revegetation and reduce their linear appearance. The final overall slopes will be about 3H:1V. Potholes and other slope aspect variations will be provided.
VIS-8. Waste rock pile slopes will be graded during reclamation to facilitate revegetation and eliminate their linear profile. Overall slopes will be about 2.5H:1V. Potholes and other slope aspect variations will be provided.

VIS-9. The final mine pit highwall will be stained to simulate the visual trace of Redlands Canyon through the highwall as viewed from the principal viewpoints described in the Final EIS/EIR. As excavation proceeds and the configuration of the highwall is finalized based on detailed engineering, the area to be stained will be finalized to achieve a pattern acceptable to the County and BLM.

VIS-10. Mitigation measures VEG-11, VEG-12 and VEG-13 which are related to revegetation following site reclamation, will reduce visual impacts.

CULTURAL RESOURCES

CUL-1. Archeological sites CA-INY-4643 and CA-INY-4644 will be fenced to preclude unintentional trespass or disturbance during project development and operation. The fence around each site will be established as a first step activity in the initial stage of facilities development. The boundary of each fenced area will be established in consultation with BLM.

CUL-2. Site CA-INY-4814-H, the Gold Tooth historic mine site, will be avoided during project operations. The minimum distance between the periphery of site CA-INY-4814-H and the waste rock pile will be approximately 60 feet. To protect site integrity and preclude unintentional trespass or disturbance, Canyon will establish a physical barrier at the boundary of the waste rock pile where it is proximal to the site. This barrier will be comprised of two earthen berms. The first berm will be placed during initial facilities development at the outer edge of the waste rock pile. This berm will be established in consultation with a professional archaeologist and BLM. The second berm will be constructed at the top perimeter of the first waste rock pile lift, after placement of the lift material. This berm will provide additional protection from equipment excursions and loose material that might roll down the face of the lift. Both berms will be reclaimed upon mine closure.

CUL-3. Sites CA-INY-4643, CA-INY-4644, and CA-INY-4814-H will be monitored on a semiannual basis by a qualified archaeologist. Any unanticipated impacts to the resources (e.g., erosion) will be identified and treatments developed, if unanticipated impacts occur.

CUL-4. Construction contractors and operations personnel will be instructed regarding the sensitivity

of cultural resources and the presence of laws against unauthorized collection or disturbance. Canyon will provide this instruction as part of its worker education program. Appropriate personnel will be instructed that surface disturbance must cease immediately in any area where an unknown cultural resource is discovered. Activities will cease in the discovery area until the requirements of 36 CFR Part 800.11 were met, including resource evaluation by the BLM.

TRANSPORTATION

TRA-1. Canyon will enter into an agreement with the County for maintenance of Ballarat and Wingate road roads. The intent of this agreement will be to offset increased maintenance requirements for these roads that may result from project implementation.

TRA-2. Mitigation measures incorporated by project design to minimize transportation effects of offsite borrow include the following:

a. A road grader will be available full time during hauling operations, to maintain the road surface.

b. A flagger will be stationed at the intersection of Wingate Road and the clay borrow haul road during hauling operations.

NOISE

NOI-1. Machinery, equipment and vehicles will be equipped with mufflers .

NOI-2. Blasting will occur only during daylight hours.

SOCIOECONOMICS

SOC-1. To the extent feasible, Canyon will hire construction and operations personnel from the local labor force.

ENVIRONMENTAL HEALTH AND SAFETY

ENV-1. Fences will be erected around potentially hazardous areas to deter entry by unauthorized mine personnel or visitors.

ENV-2. A designated emergency medical transport vehicle will be provided onsite for emergency response. First aid equipment will be provided at appropriate locations.

ENV-3. A regular maintenance program for access roads to the site will be implemented.

ENV-4. Advisory signs will be posted along access roads to the site to encourage safe travel, as directed by the County.

BRIGGS PROJECT-MITIGATION MEASURES ADDED BY BLM AND INYO COUNTY

These measures will be implemented pursuant to 40 CFR 1502.16(f) and 14 CCR 15041, in addition to mitigation measures incorporated by project design. Numbering of measures under each resource category is consecutive, following measures listed in the previous section.

Water Resources

WAT-12. Canyon shall consult with the RWQCB and BLM prior to applying dust suppression or soil stabilization chemicals, and shall provide the RWQCB and County with Material Safety Data Sheets or other information on the chemical make-up of products used on roads and other disturbed surfaces. Canyon shall report dust suppression and soil stabilization chemical use (i.e., types and amounts of chemicals applied to the ground surface) to the RWQCB and BLM on an annual basis.

WAT-13. Canyon shall provide representative results of grain size distribution testing to the RWQCB for materials intended for use as leach pad liner cover. Calculations should be provided to the RWQCB documenting that the gravel permeability, in combination with perforated solution drainage piping, will effectively control hydrostatic head over the liner. The maximum particle size for material placed in direct contact with the leach pad liner shall not exceed 1.5 inches unless provisions are taken to protect the liner from puncturing (e.g., a geotextile protective layer may be installed over the liner).

WAT-14. The reclaimed configuration of the heap leach pad shall include a collection point adequate for representative monitoring of potential leachate in the spent ore heap.

Vegetation

VEG-14. Canyon shall implement revegetation measures of the reclamation plan under the supervision of a qualified professional or organization with experience in revegetation and habitat restoration at desert sites. The party or organization selected shall be subject to BLM and County concurrence.

VEG-15. In addition to salvaging of Ferocactus that is included in the modified Proposed Action, Canyon shall salvage additional cactus species from areas to be disturbed, for transplanting into reclaimed areas. Enough of these additional cactus shall be salvaged to provide two stems /acre.

Wildlife

WIL-18. If burrowing owls are found at the nesting location near Ballarat Road when project construction is planned to start, measures shall be taken to force the owls to seek an alternate nesting area. During the off-season (November- January), and upon confirming that the existing burrow is not occupied, the nesting area shall be cleared and the burrow collapsed. These activities should be completed by a qualified biologist, in consultation with BLM and DFG.

WIL-19. Canyon shall perform habitat enhancement for the Townsend's big-eared bat. Habitat enhancement shall be tiered, based on the success of the planned measures to encourage the bats to seek an alternate roost site, as follows:

a. Canyon shall provide a gate to preclude undesirable human access at the Gold Tooth adit located near the Briggs Project site.

b. If the maternity colony of Townsend's big-eared bats cannot be determined to have relocated successfully from adits in the pit area, Canyon shall perform bat habitat enhancement of one or two additional adits in the vicinity. Enhancement of two additional adits shall be required if gating of the Gold Tooth adit does not improve habitat at that location, as indicated by level of use by this species. If an alternate maternity roost is not located, Canyon may construct an artificial adit.

WIL-20. The fence proposed for the processing area shall have a minimum height of 8 feet and shall encompass all cyanide storage and use areas to effectively discourage access by bighorn sheep. Fencing material shall be chain- link, or another material acceptable to BLM, with gates where human access is required. Gates shall be kept closed when not in use.

WIL-21. Canyon shall consult with BLM prior to finalizing the netting design for the detoxification pond. The mesh size used shall be selected to prevent potential entanglement of birds or bats.

Air Quality

AIR-4. To provide additional control of offsite emissions, Canyon shall treat and maintain the entire length of the access road from Trona-Wildrose Road to the project site with an emulsion compound capable of 90 percent dust emission control. Nonemulsion alternatives are acceptable, provided that Canyon demonstrates to BLM and the County that equivalent control would be achieved.

AIR-5. Canyon shall implement a monitoring program to assure that the clay borrow contains adequate moisture to prevent excessive dust. Canyon shall submit a detailed plan for moisture monitoring (i.e., sample method, frequency, etc.) prior to each phase of borrow. If the moisture of the clay material being excavated or hauled drops below 4 percent, excavation shall be halted during periods of high speed winds. During excavation and hauling, each load shall be covered (e.g., tarped) or wetted prior to transport. Moisture monitoring may be suspended, if testing during borrow activities documents that the clay moisture content is consistently high.

Land Use

LAND-3. Canyon shall enter into a Letter of Agreement with the Department of Defense, R-2508 Complex Control Board, to coordinate blasting activity and reduction of high-intensity lighting during military night vision missions in the vicinity of the Briggs Project site.

Visual Resources

VIS-11. Canyon shall implement the revised grading plan and surface contouring to simulate eroded surfaces as shown in Figure 4.1 in Volume I of this Final EIS/EIR.

VIS-12. Mitigation measure AIR-4 will also reduce significant visual impacts.

VIS-13. Mitigation measure VEG-15 will also reduce significant visual impacts.

Transportation

TRA-3. Canyon shall inform vendors with large deliveries of the potentially hazardous conditions at the Slate Range crossing. Service contracts or other written statements shall warn vendors of the steep grade, sharp corners, reduced speeds required for safe travel, and the need for large trucks to be

equipped with a "Jacobs-brake." A map of the site vicinity and clear written directions shall be provided to assist drivers in finding the site, and to designate areas where large vehicles need to exercise special caution.

TRA-4 Mitigation measure AIR-4 will also reduce the traffic hazard of decreased visibility on Ballarat and Wingate roads.

(Form 1842-1
(February 1985)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL . . . . Within 30 days file a *Notice of Appeal* in the office which issued this decision (see 43 CFR Secs. 4.411 and 4.413). You may state your reasons for appealing, if you desire.

2. WHERE TO FILE NOTICE OF APPEAL . . .

CALIFORNIA DESERT DISTRICT
6221 BOX SPRINGS BOULEVARD
RIVERSIDE, CA 92507-0714

SOLICITOR ALSO COPY TO . . . .

PACIFIC REGIONAL SOLICITOR
U.S. DEPARTMENT OF THE INTERIOR
FEDERAL OFFICE BUILDING
2800 COTTAGE WAY
SACRAMENTO, CA 95825

3. STATEMENT OF REASONS . . Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203 (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary.

SOLICITOR ALSO COPY TO . . . .

PACIFIC REGIONAL SOLICITOR
U.S. DEPARTMENT OF THE INTERIOR
FEDERAL OFFICE BUILDING
2800 COTTAGE WAY
SACRAMENTO, CA 95825

4. ADVERSE PARTIES . . . . Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR Sec. 4.413). Service will be made upon the Associate Solicitor, Division of Energy and Resources, Washington, D.C. 20240, instead of the Field or Regional Solicitor when appeals are taken from decisions of the Director (WO-100).

5. PROOF OF SERVICE . . . . Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43 CFR Sec. 4.401(c)(2)).

Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: *A document is not filed until it is actually received in the proper office (see 43 CFR Sec. 4.401(a)).*

SUBPART 1821.2--OFFICE HOURS; TIME AND PLACE FOR FILING

Sec. 1821.2-1 *Office hours of State Offices.* (a) State Offices and the Washington Office of the Bureau of Land Management are open to the public for the filing of documents and inspection of records during the hours specified in this paragraph on Monday through Friday of each week, with the exception of those days where the office may be closed because of a national holiday or Presidential or other administrative order The hours during which the State Offices and the Washington Office are open to the public for the filing of documents and inspection of records are from 10 a.m. to 4 p.m., standard time or daylight saving time, whichever is in effect at the city in which each office is located.

Sec. 1821.2-2(d) Any document required or permitted to be filed under the regulations of this chapter, which is received in the State Office or the Washington Office, either in the mail or by personal delivery when the office is not open to the public shall be deemed to be filed as of the day and hour the office next opens to the public.

(e) Any document required by law, regulation, or decision to be filed within a stated period, the last day of which falls on a day the State Office or the Washington Office is officially closed, shall be deemed to be timely filed if it is received in the appropriate office on the next day the office is open to the public.

* * * * *